

Section 850 - Zoning

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850.01 Findings, Purpose and Objectives. The Council finds that Edina has emerged from an era exemplified by unparalleled growth and development and has entered a period of stability, reuse and redevelopment; that some of the standards and regulations which guided initial development of the City are not appropriate for guiding future development and redevelopment; and that standards and regulations for guiding future development and redevelopment should be based upon the stated goals, objectives and policies of the Comprehensive Plan of this City, as from time to time amended, which constitutes the City's statement of philosophy concerning the use of land within its jurisdiction. Through the enactment of this Section, the Council intends to implement this statement of philosophy so as to provide for the orderly and planned development and redevelopment of lands and waters in Edina, to maintain an attractive living and working environment in Edina, to preserve and enhance the high quality residential character of Edina and to promote the public health, safety and general welfare.

Specifically, this Section is intended to implement the following objectives, some of which are contained in the Comprehensive Plan:

Maintain, protect and enhance single family detached dwelling neighborhoods as the dominant land use.

Encourage orderly development of multi-family housing that offers a wide range of housing choice, density and location while maintaining the overall high quality of residential development.

Control the use, development and expansion of certain non-residential uses in the Single Dwelling Unit District in order to reduce or eliminate undesirable impacts of such non-residential uses.

Encourage a more creative and imaginative approach to the development of multi-family developments.

Provide an enjoyable living environment by preserving existing topography, vegetation, streams, water bodies and other natural land and water forms.

Encourage mixed use developments which:

- A. Provide housing for persons of low and moderate income.
- B. Include recreational facilities and parks.
- C. Harmoniously integrate residential and non-residential uses.
- D. Encourage the increased use of mass transit.
- E. Reduce employment-related automobile trips.

Encourage orderly development, use and maintenance of office, commercial and industrial uses which are compatible with the residential character of the City.

Recognize and distinguish commercial districts at the neighborhood level, the community level and the regional level, so as to provide retail establishments compatible in use and scale with surrounding properties, especially those used for residential purposes.

Establish requirements for parking and loading to minimize impacts on public streets and surrounding properties.

Establish standards for landscaping and screening to contribute to the beauty of the community, add to the urban forest and buffer incompatible uses from one another.

Preserve buildings, lands, areas and districts which possess historical or architectural significance.

Protect surface and ground water supplies; minimize the possibility of periodic flooding resulting in loss of life and property, health and safety hazards and related adverse effects.

Allow interim uses of closed public school buildings.

The Council also finds that sexually-oriented businesses have adverse secondary characteristics particularly when they may be accessible to minors or are located near residential properties or schools, day care centers, libraries and parks, and such businesses can exert a dehumanizing influence on persons attending or using such residential properties or schools, day care centers, libraries and parks.

Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located.

Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.

The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating -- other businesses move out of the vicinity and residents flee from the area. Declining real estate values, which can result from the concentration of such businesses, erode the City's tax base and contribute to overall urban blight.

The regulation of the location and operation of sexually-oriented businesses is warranted to prevent the adverse secondary effects of such businesses on the City's crime rate, its retail trade, its property values, and in general the quality of the City's neighborhoods, commercial and industrial districts, and urban life.

This Section divides the City into districts and establishes minimum requirements for these districts as to the location, height, parking, landscaping, bulk, mass, building coverage, density and setbacks of buildings and structures and the use of buildings, structures and properties for residences, retailing, offices, industry, recreation, institutions and other uses. This Section also provides procedures for the transfer of property to another district, procedures for the issuance of conditional use permits, establishes the Zoning Board of Appeals, provides for the administration of this Section, and establishes penalties and remedies for violations. This Section also establishes overlay districts designed to preserve buildings, lands, areas and districts of historic or architectural significance and to protect surface and ground water supplies and minimize the possibility of periodic flooding resulting in loss of life and property, health and safety hazards and related adverse effects.

The Council also finds that the Greater Southdale area, especially that portion contained within the Planned Commercial District is of vital interest to the welfare of the entire City and, therefore, the Council hereby adopts the following additional objectives with respect to this area:

- A. To contribute to maintaining and enhancing the Greater Southdale Area as a unique and vibrant regional retail destination.
- B. To encourage a range of housing types within the Greater Southdale Area.
- C. To encourage a mixed use shopping, living and working environment that meets the needs of residents and visitors and helps mitigate the effects of traffic by reducing vehicle trips and miles by allowing residences in close proximity to employment and services.
- D. To increase the allowed density of development in the PCD-3 subdistrict to be more comparable with other planned commercial districts in the City and other zoning districts in the Greater Southdale Area and to permit a level of development intensity appropriate for the area.
- E. To reduce setback requirements from public street rights of way in order to encourage and permit a closer relationship between storefronts and streetscapes.
- F. To ensure that residential development in the PCD-3 subdistrict is compatible with non-residential uses.
- G. To more efficiently utilize public infrastructure by taking advantage of peak demand variations among land uses.
- H. To allow a density of development that improves the feasibility of mass transit services utilized by residents, shoppers and employees of the Greater Southdale Area.
- I. To provide incentives to encourage affordable and life cycle housing.
- J. To encourage development of an active pedestrian environment and pedestrian accessibility to and among developments.

To encourage the inclusion of green spaces, open space, locations for public art, landscape buffers, parks, plazas, fountains, water retention areas and other similar spaces for the use and enjoyment of residents, visitors and employees and to enhance the quality of the human and physical environment.

850.02 Short Title. This Section shall be known as the Zoning Ordinance, may be cited as such, and will be referred to in this Section as "this Section".

850.03 Rules of Construction, Interpretation, Severability, Definitions.

Subd. 1 Rules of Construction. In construing this Section, the following rules of construction shall govern, unless their observance would involve a construction inconsistent with the manifest intent of the Council, or be repugnant to the context of the section:

A. The use of the phrase "used for" shall include the phrases "designed for," "intended for," "improved for," "maintained for," "offered for," and "occupied for."

B. Words and phrases shall be construed according to rules of grammar and according to their common and accepted usage; but technical words and phrases and such others as have acquired a special meaning, or are defined in this Section, shall be construed according to such special meaning or their definition.

C. References in this Section to this Section or to another Code provision, whether or not by specific number, shall mean this Section, and the referred to Code provision, as then amended.

D. The R-1 District is also used as a holding or open development area for those properties shown on the Comprehensive Plan as having the potential for development for uses other than permitted in the R-1 District, which other uses shall be permitted only after rezoning pursuant to Subsection 850.04 of this Section.

Subd. 2 Interpretation. The provisions of this Section shall be the minimum requirements for the promotion of the public health, safety, morals and general welfare. It is not the intention of this Section to interfere with, abrogate or annul any covenant or agreement between parties. Where this Section imposes greater restrictions than any other applicable statute, ordinance, rule or regulation, this Section shall control when and to the extent allowed by State law. Where any other applicable statute, ordinance, rule or regulation, including, without limitation, as to Subsection 850.21, those of the Minnehaha Creek Watershed District and the Nine Mile Creek Watershed District, and the Minnesota Department of Natural Resources, imposes greater restrictions than this Section, such other statute, ordinance, rule or regulation shall control. The section, subsection and paragraph headings are for reference only, and shall not be used to interpret, enlarge or detract from the provisions of this Section. Any use not specifically allowed by this Section in a district as a principal, accessory or conditional use, shall not be allowed or permitted in that district by implication, interpretation or other construction of, or meaning given to, the wording of this Section.

Subd. 3 Definitions. The following words, terms and phrases, as used herein, have the following meanings:

Accessory Building. A separate building or structure or a portion of a principal building or structure used for accessory uses.

Accessory Use. A use allowed by this Section which is subordinate to the principal use in terms of purpose, scope and extent and is located on the same lot as the principal use.

Adult Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of Specified Anatomical Areas.

Adult Bookstore. An establishment or business which barter, rents or sells items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film and either alone or when combined with Adult Motion Picture Rental or Sales and Adult Novelty Sales within the same business premises has either 10 percent or

more of its stock in trade or 10 percent or more of its floor area containing items which are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Cabaret. An establishment or business which provides dancing or other live entertainment, if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Companionship Establishment. An establishment or business which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

Adult Conversation/Rap Parlor. An establishment or business which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

Adult Health/Sport Club. An establishment or business which excludes minors by reason of age and is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

Adult Hotel or Motel. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

Adult Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

Adult Modeling Studio. An establishment or business which provides to customers, figure models who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

Adult Motion Picture Rental or Sales. An establishment or business which barter, rents or sells videotapes or motion picture film and either alone or when combined with Adult Bookstore or Adult Novelty Sales within the same business premises has either 10 percent or more of its stock in trade or 10 percent or more of its floor area containing items which are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Motion Picture Theater. A building or portion of a building with a capacity of 50

or more persons used for presenting material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

Adult Novelty Sales. An establishment or business which sells devices which stimulate human genitals or devices which are designed for sexual stimulation and either alone or when combined with Adult Bookstore and Adult Motion Picture Rental or Sales has either 10 percent or more of its stock in trade or 10 percent or more of its floor area containing such items and other items which are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Sauna/Bathhouse/Steam Room. An establishment or business which excludes minors by reason of age and which provides a steam bath or heat bathing room if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

Alley. A public right of way less than 30 feet in width which is used or usable for a public thoroughfare.

Alteration. A physical change in a building or structure that requires the issuance of a building permit in accordance with Section 410 of this Code, but excluding changes to mechanical equipment such as furnaces and boilers.

Apartment Building. A residential building having not less than three dwelling units in a single building with at least one dwelling unit occupying a different story or stories than other dwelling units in the same building.

Automobile Service Center. A principal building and its accessory buildings in which batteries, tires, brakes, exhaust systems or other automobile parts are repaired or replaced, including tune-ups, wheel balancing and alignment, but excluding body and chassis repair, painting, engine rebuilding and any repair to vehicles over two ton capacity. Gasoline and oil may be dispensed as an accessory use.

Basement. A floor level of a building which is located partly or completely underground.

Board. The Zoning Board of Appeals of the City established by this Section.

Building. Any structure used or intended for supporting or sheltering any use, property or occupancy, and when the structure is divided by walls without openings, each portion of the structure so separated shall be deemed a separate building.

Building Coverage. The percentage of the lot area occupied by principal and accessory buildings and structures, including without limitation, patios.

Building Height or Structure Height. The distance measured from the average existing ground elevation adjoining the building at the front building line to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, or to the average distance of the highest gable on a pitched or hip roof. References in this Section to building height shall include and mean structure height, and if the structure is other than a building, the height shall be measured from said average existing ground elevation to the highest point of the structure. "Existing ground elevation" means the lowest of the following elevations: (1) the grade approved at the time of the subdivision creating the lot, (2) the grade at the time the last demolition permit was issued for a

principal structure that was on the lot, (3) the grade at the time the building permit for a principal structure on the lot is applied for.

Car Wash. A principal building which is equipped with a conveyor system and other mechanical equipment and facilities for washing motor vehicles.

Car Wash - Accessory. An accessory building or part of a principal building equipped with mechanical equipment and facilities (but not a conveyor system) for washing motor vehicles and which is accessory to an automobile service center or gas station. An accessory car wash shall be capable of servicing only one vehicle at a time.

Club. A non-profit organization with bona fide members paying annual dues, which owns, hires or leases a building, or portion, the use of which is restricted to members and their guests.

Commission. The Planning Commission of the City.

Community Center. A building, or portion thereof, which houses public health facilities, governmental offices and meeting rooms, social service facilities, meeting rooms and facilities for civic and cultural organizations and groups, and publicly sponsored recreational activities, or any combination, all of which are intended for the use and benefit of residents of the City, and which is designated, by resolution of the Council, as a community center.

Comprehensive Plan. Comprehensive Plan shall have the same meaning as in Subsection 810.02 of this Code.

Conditional Use. A use which, though generally not suitable in a particular zoning district, may, under some circumstances, and subject to conditions, be suitable in a particular district. Conditional uses shall be allowed by this Section only pursuant to the issuance of a conditional use permit.

Convalescent Home. A building or group of buildings licensed by the Minnesota Department of Public Welfare for the care of children, the aged or infirm, or a place of rest and care for those suffering physical or mental disorders. Hospitals, clinics, maternity care homes, and other buildings or parts of buildings containing surgical equipment are not included.

Counseling Service. A public or private organization which provides advice and assistance concerning such matters as career objectives, chemical and alcohol abuse and health problems. Counseling services do not include employment agencies, attorneys' offices or uses which are typically located in business or professional offices.

Curb Elevation. The average elevation of the constructed curb of the street along a front lot line. Where there is no constructed curb, the Engineer shall establish the curb elevation for purposes of this Section.

Day. A calendar day.

Day Care. A service providing care and supervision for part of a day for individuals who are not residents of the principal building in which the service is located.

Deck. A structure which is either freestanding or attached to a principal or accessory building, constructed at grade or above grade, intended or designed for use as outdoor living space and unenclosed by solid or non-solid walls or a roof. Enclosures or covered

areas such as gazebos, breezeways and porches which may be integral to a deck shall be considered for setback purposes as accessory buildings if the deck is freestanding, or as a part of the principal building if the deck is attached to the principal building.

District. A geographic area or areas of the City sharing the same zoning classification for which this Section establishes restrictions and requirements. A district may be divided into subdistricts.

Drive-In. A principal or accessory use which sells or serves products or merchandise to customers waiting in vehicles who then consume or use the product or merchandise within the vehicle while on the lot occupied by the principal or accessory use.

Drive-Through Facility. An accessory use which provides goods or services to customers waiting in vehicles who then leave the lot to consume or utilize any goods which may have been received. Employees of the principal use shall not leave the confines of the principal or accessory building to dispense said goods or services.

Dwelling Unit. One or more rooms connected together, but which is or are separated from all other rooms in the same building, which room constitutes, or rooms constitute, a separate, independent unit with facilities for cooking, sleeping and eating, and used for residential occupancy. A room or rooms shall be deemed to be a dwelling unit if it contains or they contain facilities for cooking, sleeping and eating, if it or they can be separated from all other rooms in the same building, if access can be gained without entering or passing through any living space of another dwelling unit, and if it is or they are used for residential occupancy.

Efficiency Apartment. A dwelling unit consisting of one room exclusive of bathroom, kitchen, hallway, closets or dining alcove directly adjoining the one room.

Efficiency Dwelling Unit. See Efficiency Apartment.

Fence Height. The vertical distance measured from the finished grade to the uppermost point of the fence panels. The grade at the fence line shall not be altered in anyway that artificially increases the maximum permitted height of the fence. The height of the fence may exceed the allowed height by a maximum of six inches to accommodate drainage and uneven terrain. Posts may extend beyond the top of any the fence by no more than twelve inches.

Floor Area Ratio (FAR). Gross floor area divided by lot area.

Frontage. That portion of a lot line which coincides with the right-of-way line of a street.

Garage - Accessory. An accessory building or portion of a principal building which is principally used for the storage of motor vehicles owned by the occupants of the principal building.

Garage - Repair. A principal building used for the repair of motor vehicles or the storage, for a fee, of motor vehicles for periods exceeding 24 hours.

Gas Station. A principal building and its accessory structures used for the sale of motor fuels and oils, where automotive accessories and convenience goods may be sold, but where repair and servicing of motor vehicles does not occur; provided, however, that an accessory car wash is permitted. If repair or servicing is provided, the use shall be classified as an automobile service center.

Gross Floor Area (GFA). The sum of the horizontal areas of all the floors of a building as measured from (i) the exterior faces of the exterior walls; (ii) the exterior window line of the exterior walls in the case of a building with recessed windows, or (iii) the center line of any party wall separating two buildings. Gross floor area includes basements, hallways, interior balconies and mezzanines, enclosed porches, breezeways and accessory buildings not used for parking. Gross floor area does not include accessory garages, parking ramps, parking garages, areas not enclosed by exterior walls, mechanical rooms, patios, decks, restrooms, elevator shafts or stairwells. Use of the phrase "floor area," in this Section shall mean "gross floor area" as herein defined, unless otherwise specifically stated.

Half Story. The uppermost floor of a building in which (i) the intersection of the exterior wall and the roof is not more than three feet above the floor elevation, and (ii) not more than 60 percent of the floor's area exceeds five feet in height as measured from the floor to the rafters. Floors not meeting this definition shall be deemed a story.

Helistop. An area, either at ground level or elevated on a structure, used for landing and takeoff of helicopters.

Hotel. A building, or group of buildings, which, in whole or in part, contains rooms used for sleeping or transient occupancy.

Lodge Hall. A hall for, or meeting place of, the members of a local branch of a fraternal order or society, such as the Masons, Knights of Columbus, Moose, American Legion and other similar organizations.

Lot. The basic development unit for purposes of this Section. A lot may consist of one parcel or two or more adjoining parcels under single ownership or control, and used for a principal use and accessory uses allowed by this Section. A lot, except lots in a townhouse plat, must have at least 30 feet frontage on a street other than at limited access freeway.

Lot Area. The area within the lot lines exclusive of land located below the ordinary high water elevation of lakes, ponds and streams.

Lot - Corner. A lot at the junction of and abutting on two or more intersecting streets, or at the point of deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

Lot Depth. The horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line. The greater frontage of a corner lot is its depth and the lesser frontage is its width.

Lot - Interior. A lot other than a corner lot.

Lot Line - Front. The boundary of a lot having frontage on a street. The owner of a corner lot may select either frontage as the front lot line.

Lot Line - Interior. Any boundary of a lot not having frontage on a street.

Lot Line - Rear. The boundary of a lot which is most distant from, and approximately parallel with, the front lot line.

Lot Line - Side. Any boundary of a lot which is not a front or rear lot line.

Lot - Through. An interior lot having frontage on two streets.

Lot Width. The horizontal distance between side lot lines measured at right angles to the line establishing the lot depth at a point of 50 feet from the front lot line.

Lot Width to Perimeter Ratio. The lot width divided by the perimeter of the lot.

Motel. See Hotel.

Motor Hotel. See Hotel.

Multi-Residential Use. A residential use permitted in the Planned Residence District and the Mixed Development District.

Non-Conforming Building. A building or structure which does not meet the requirements of the zoning district in which it is located due to the enactment of this Section or any amendment thereto, but which was lawfully existing as of the date of its construction or placement.

Non-Conforming Lot. A lot which does not meet the requirements of the zoning district in which it is located, or of Section 810 of this Code, due to the enactment of this Section, or of Section 810 of this Code, or any amendments to either, but which met all such requirements as of the date the lot was established or created of record.

Non-Conforming Use. A principal or accessory use which does not meet the requirements of the zoning district in which it is located due to the enactment of this Section, or any amendment hereto, but which was a lawful use as of the date it was first commenced.

Non-Profit Organization. An organization which is qualified for tax exemption under §§501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended.

Nursing Home. See Convalescent Home.

Outlot. An area, parcel, tract or lot of land shown on a plat or subdivision as an outlot.

Parcel. A unit of land with fixed boundaries described by lot and block and reference to a recorded plat approved by the duly adopted resolution of the Council, or by a metes and bounds, or other, description. A parcel may or may not be a lot as defined in this Section.

Parking Garage. A building which is totally enclosed by walls and a roof, and containing one or more levels for the parking of vehicles.

Parking Ramp. A structure which is not totally enclosed, containing one or more levels for the parking of vehicles.

Patio. A portion of a lot which is improved with a surfacing material including, but not limited to, concrete, asphalt or decorative bricks, which is intended or designed for use as outdoor living space and is not enclosed by solid or non-solid walls or a roof. Enclosures or covered areas such as gazebos, breezeways and porches which may be integral to a patio will be considered, for setback purposes, as accessory buildings if the patio is freestanding or is part of the principal building, if the patio is contiguous with the principal building.

Principal Building. A building which is used for principal uses including enclosed seasonal living areas such as porches and breezeways which are attached to the principal

building.

Residential Building. A building used for residential purposes or residential occupancy.

Residential Occupancy. The use of a room or rooms for housekeeping purposes by the owner of the property, or by a lessee or occupant, for periods of 30 days or more for a rental fee, or other compensation, or pursuant to other arrangements with the owner.

Residential Use. See Residential Occupancy.

Rest Home. See Convalescent Home.

Senior Citizen Dwelling Unit. (i) A one bedroom dwelling unit within an apartment building with a kitchen, bathroom, living and storage space, of not less than 550 square feet nor more than 650 square feet, and specifically designed for occupancy by a single individual 62 years of age or over, or two individuals, one of whom is 62 years of age or over; (ii) A one bedroom dwelling unit within an apartment building with a kitchen, bathroom, living and storage space, of not less than 550 square feet nor more than 700 square feet, and specifically designed for occupancy by a handicapped individual; or (iii) A two bedroom dwelling unit within an apartment building with a kitchen, bathroom, living and storage space, of not less than 750 square feet nor more than 850 square feet, and specifically designed for occupancy by a single individual 62 years of age or over, or two individuals, one of whom is 62 years of age or over.

Setback - Front Street. The shortest horizontal distance from the forward most point of a building or structure to the nearest point on the front lot line.

Setback - Interior Side Yard. The shortest horizontal distance from any part of a building or structure to the nearest point on an interior side lot line.

Setback - Rear Yard. The shortest horizontal distance from any part of a building or structure to the nearest point on a rear lot line.

Setback - Side Street. The shortest horizontal distance from any part of a building or structure to the nearest point on a side lot line that adjoins a street.

Sexually-Oriented Businesses. Adult bookstores, adult motion picture theaters, adult motion picture rental, adult mini-motion picture theaters, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, and adult body painting studios as herein defined. In addition, all other premises, enterprises, establishments, businesses or places at or in which there is an emphasis on the presentation, display, depiction or description of Specified Sexual Activity or Specified Anatomical Areas which are capable of being seen by members of the public. The term "sexually-oriented businesses" shall not be construed to include; (i) schools or professional offices of licensed physicians, chiropractors, psychologists, physical therapists, teachers or similar licensed professionals performing functions authorized under the licenses held; (ii) establishments or businesses operated by or employing licensed cosmetologists or barbers performing functions authorized under licenses held; (iii) businesses or individuals licensed in accordance with Section 1340 of this Code, or (iv) the sale of clothing.

Shopping Center. A group of unified commercial establishments located on a single

tract, permitted in the PCD-1, PCD-2 and PCD-3 Districts, composed of not fewer than six separate and distinct business entities which are located in one or more buildings comprising not less than 25,000 square feet of gross floor area, and which share joint use of parking facilities, pedestrian ways, landscaping, traffic circulation and other amenities, in accordance with and pursuant to a joint use agreement, in form and substance acceptable to the Planner and Engineer, duly signed and delivered by all owners and encumbrances of the shopping center, and duly recorded in the proper office to give constructive notice.

Specified Anatomical Areas. (i) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; or; (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities. (i) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or (ii) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or; (iii) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or; (iv) Fondling or touching of nude human genitals, pubic region, buttock, or female breast(s); or, (v) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or, (vi) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or, (vii) Human excretion, urination, menstruation, vaginal or anal irrigation.

Split Level Dwelling. A Split Level Dwelling has two or three short sets of stairs, and two to four levels. The front entry is on a middle floor between two floors. The front door opens in a foyer or entry area located in a wing off the main house. From the front entry, a short flight of stairs leads up to the top floor and another short flight leads down.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is not a floor above, the space between the floor and the ceiling above. A basement with more than 50 percent of its exterior wall area located entirely below the proposed ground elevation adjoining the basement shall not be counted as a story.

Street. A public right-of-way 30 feet or more in width which is used or usable as a public thoroughfare. All references in this Section to measurements to or along a street shall mean to and along the public right-of-way and not to the improved or traveled portion of such right-of-way.

Street Intersection. Where two or more streets meet.

Structure. Anything built or constructed, an edifice or building of any kind, or any piece of work composed of parts joined together in some definite manner, and including, without limitation, towers, poles and fences except parking lots and driveways.

Suites Hotel. A hotel in which at least 80 percent of the guest rooms are two-room suites

containing at least 400 square feet of gross floor area.

Swimming Pool. A constructed pool, used for swimming or bathing, with a water surface area exceeding 100 square feet. The term shall also include the deck area required by this Code and any equipment appurtenant to the pool.

Townhouse. A dwelling unit attached to other dwelling units by common walls, side by side, extending from the foundation to the roof and without any portion of one dwelling unit located above any portion of another dwelling unit, and with each dwelling unit having a separate entrance from outside the building. Buildings with distinct, separate spaces, or designed for distinct, separate spaces, for office, commercial or industrial uses, in a manner similar to a residential townhouse described above, shall be deemed townhouses for purposes of this Section.

Townhouse Plat. The subdivision, by recorded plat approved by duly adopted resolution of the Council, whereby all lot lines are coterminous, or nearly so, with the boundaries of the foundation of each building, and the area of the land lying outside of the lots and within the subdivision is described as an outlot which is owned by an association of owners of the lots in the townhouse plat.

Tract. One or more adjoining lots, not separated by streets, under common ownership, located within the same zoning subdistrict, and used for an integrated development.

Transient-Occupancy. The use of a room or rooms for sleeping, cooking or eating, in a residential manner, for periods of less than 30 days and for a rental fee, or other compensation, or pursuant to other arrangements with the owner, lessee or occupant of the premises.

Yard - Front. An open, unoccupied space on the same lot as a building, which lies between the building and the front lot line, and extends from side lot line to side lot line.

Yard - Rear. An open, unoccupied space on the same lot as a building, which lies between the building and the rear lot line, and extends from side lot line to side lot line. Some accessory buildings may be placed in the rear yard.

Yard - Side. An open, unoccupied space on the same lot as a building, which lies between the building and the side lot line, and extends from the front lot line to the rear lot line. Some accessory buildings may be placed in the side yard.

Year. A period of 365 consecutive days.

850.04 Administration and Procedures for Variances and Appeals, Rezoning, Site Plan Review, and Conditional Use Permits.

Subd. 1 Pursuant to Minnesota Statutes 15.99, applications shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.

Subd. 2 Variances and Appeals.

A. Zoning Board of Appeals. The Planning Commission shall serve as the Board of Appeals and Adjustments created pursuant to M.S. 462.354, Subd. 2.

B. Powers and Duties of Board. The Board shall have the power and duty of hearing and deciding, subject to appeal to the Council, the following matters:

1. Requests for variances from the literal provisions of this Section;
2. Appeals in which it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the interpretation or enforcement of this Section;
3. Requests for variances from the literal provisions of Section 1046 of this Code;
4. Requests for modifications from the requirements of Section 815 of this Code; and
5. If a variance request is part of another land use application, including but not limited to a conditional use permit, rezoning, and preliminary or final site plan, the decision by the Zoning Board of Appeals is automatically appealed to the City Council. The City Council would then take official action on the applications including the variance. If a variance request is made along with a certificate of appropriateness for the Heritage Preservation Board, the Zoning Board of Appeals decision is not automatically appealed. Final decision of the Board of Appeals would stand unless appealed

C. Petitions for Variances. The owner or owners of land to which the variance relates may file a petition for a variance with the Planning Department. The petition shall be made on forms provided by the Planning Department and shall be accompanied by the fee set forth in Section 185 of this Code. The petition shall be accompanied by plans and drawings to scale which clearly illustrate, to the satisfaction of the Planner, the improvements to be made if the variance is granted. The Planner may require the petitioner to submit a certificate by a registered professional land surveyor verifying the location of all buildings, setbacks and building coverage, and certifying other facts that in the opinion of the Planner are necessary for evaluation of the petition.

D. Appeals of Administrative Decisions. A person who deems himself or herself aggrieved by an alleged error in any order, requirement, decision or determination made by an administrative officer in the interpretation and enforcement of this Section, may appeal to the Board by filing a written appeal with the Planning Department within thirty (30) days after the date of such order, requirement, decision or determination. The appeal shall fully state the order to be appealed and the relevant facts of the matter.

E. Hearing and Decision by the Board; Notice.

1. Notice of variance hearings shall be mailed not less than ten (10) days before the date of the hearing to the person who filed the petition for variance and to each owner of property situated wholly or partially within two hundred (200) feet of the property to which the variance relates insofar as the names and addresses of such owners can be reasonably determined by the Clerk from records maintained by the Assessor.
2. A notice of hearing for appeals of administrative decisions shall be published in the official newspaper of the City not less than ten (10) days before the hearing. A notice shall also be mailed to the appellant.
3. No new notice need be given for any hearing which is continued by the Board to a specified future date.

F. Findings for Variances.

1. The Board shall not grant a petition for a variance unless it finds:
 - a. that the variance would be in harmony with the general purposes and intent of this section; and
 - b. that the variance would be consistent with the comprehensive plan; and
 - c. that there are practical difficulties in complying with this section.
2. "Practical difficulties" means the following:
 - a. that the property owner proposes to use the property in a reasonable manner not permitted by this section; and
 - b. that the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - c. that the variance, if granted, will not alter the essential character of the locality.
3. Economic considerations alone do not constitute practical difficulties.
4. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems,
5. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes 216C.06, Subd. 14 when in harmony with this section.
6. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.
7. A variance may be approved for the temporary use of a one family dwelling as a two family dwelling.
8. A favorable vote by the Board shall be deemed to include a favorable finding on each of the foregoing matters even if not specifically set out in the approval resolution or the minutes of the Board meeting.

G. Appeals from Decisions of the Board.

1. The following individuals may appeal a decision of the Board:
 - a. any petitioner for a variance;
 - b. any owner to whom notice of the variance hearing is required to be mailed pursuant to this Section;
 - c. the appellant in the case of an appeal of an administrative decision;
 - d. any person who deems to be aggrieved by the Board's decision on the appeal of an administrative decision; and any administrative officer of the City;

2. An appeal from a decision of the Board shall be filed with the Clerk no later than ten (10) days after the decision by the Board. If not so filed, the right of appeal shall be deemed waived, and the decision of the Board shall be final.

H. Hearing and Decision by Council. The Council shall hear and decide all appeals from the decisions of the Board, and variances associated with other land use applications. The Council shall follow the same procedures as to notices, hearings, findings for variances and decisions that the Board is required to follow relative to the subject matter of the appeal pursuant to this Section. A favorable vote by the Council shall be deemed to include a favorable finding on each of the required findings even if not specifically set out in the approval resolution or the minutes of the Council meeting.

I. Conditions on Variance Approvals. In granting a variance, the Board, or the Council on appeal, may impose conditions. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

J. Form of Action Taken and Record. The Board, or the Council on appeal, shall maintain a record of its proceedings which shall include the minutes of its meetings and final order concerning the variance petition or appeal of administrative decision. If a variance is granted, the petitioner, at the petitioner's expense, shall duly record the final order in the proper office to give constructive notice. A verified copy of such order, with the recording data, shall be delivered to the Planner. The Board, or the Council on appeal, may require such order to be recorded and such verified copy to be delivered to the Planner before the variance shall be effective.

K. Lapse of Variance by Non-User; Extension of Time.

1. If, within one (1) year after the date of the meeting of the Board, or the Council on appeal, at which the variance was granted, the owner or occupant of the affected land shall not have obtained a building permit, if one is required, and commenced the work or improvement described in such petition, the variance shall become null and void unless a petition for extension of time in which to commence the proposed work or improvement has been granted.

2. A petition for extension shall be in writing and filed with the Clerk within such one (1) year period. The petition for extension shall state facts showing a good faith attempt to use the variance and shall state the additional time requested to begin the proposed work or improvement. The petition shall be presented to the Board for hearing, findings and decision in the same manner as then required by this Section 850 for an original petition for variance. The Board may grant an extension of the variance for up to one (1) year upon finding that a good faith attempt to use the variance has been made, that there is a reasonable expectation that the variance will be used during the extension, that speculation will thereby not be fostered, and that the facts and circumstances under which the original variance was granted are not materially changed.

L. Denial. No application for a variance which has been denied in whole or in part shall be resubmitted within twelve (12) months of the date of the order of denial, except that a new application may be permitted to the same denying board, if new evidence or a change of circumstances warrant it.

Subd. 3 Site Plan Review.

A. Purpose. The purpose of this Section is to establish a formal site plan review procedure and provide regulations pertaining to ensure compliance with the site design standards imposed by Sections 460 and 850 of the City Code.

B. Approval Required. Without first obtaining site plan approval it shall be unlawful to do any of the following:

1. Construct a new building or add on to an existing building that would result in an increase in gross floor area of all buildings on the lot by more than ten percent (10%);
2. Move a building to any lot within the City;
3. Expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner which results in a different intensity of use, including the requirement for additional parking;
4. Grade or take other actions to prepare a site for development, except in conformance with a permit or an approved plan; and
5. Remove earth, soils, gravel or other natural material from or place the same on a site, except in conformance with a permit or an approved plan.

C. Exceptions. Except in those cases specifically cited within this Title, the following shall be exempt from the foregoing requirements of this Chapter:

1. Construction or alteration of a single-family or two-family residential building or accessory building;
2. Enlargement of a building by less than ten percent (10%) of its gross floor area, provided that there is no variance involved and also provided that the Planner has conducted an administrative review pursuant to Section 850 of this Ordinance; and
3. Changes in the leasable space of a multi-tenant building where the change does not intensify the use, require additional parking, or result in an inability to maintain required performance standards as specified in Section 850 of this Ordinance.

D. Neighborhood Meeting. Applicants are encouraged to hold a neighborhood meeting with nearby residents and landowners prior to filing of a formal site plan application.

E. Sketch Plan:

1. Prior to the formulation of a Site Plan, applicants are encouraged to present a sketch plan to the Planner prior to filing of a formal application. The plan shall be conceptual but shall be drawn to scale with topography of a contour interval not greater than two (2) feet and may include the following:
 - a. the proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two hundred (200) feet;
 - b. natural features;

- c. general location of existing and proposed structures including signs;
- d. tentative access, circulation and street arrangements, both public and private;
- e. amenities to be provided such as recreational areas, open space, walkways, landscaping, etc;
- f. general location of parking areas;
- g. proposed public sanitary sewer, water and storm drainage;
- h. a statement showing the proposed density of the project with the method of calculating said density also shown; and
- i. additional information that demonstrates the nature, intent, or benefit of the proposed development.

2. The Planner shall refer the sketch plan to the Planning Commission and City Council for discussion, review, and informal comment. Any opinions or comments provided to the applicant by the Planner, Planning Commission, and City Council shall be considered advisory only and shall not constitute a binding decision on the request. There shall be no official application made for a sketch plan. It is an informal review and comment by Planning Commission and City Council.

F. Procedure.

1. **Filing of Request.** Request for site plan approval, as provided within this Title, shall be filed with the Planner on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. Such application shall also be accompanied by detailed written and graphic materials, the number and size as prescribed by the Planner, fully explaining the proposed change, development, or use. The request shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the Planner shall notify the applicant, in writing, within fifteen (15) days of the date of submission.

2. **Proof of Ownership or Authorization.** The applicant shall supply proof of title and the legal description of the property for which the site plan approval is requested, consisting of an abstract of title and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested site plan application.

3. **Technical Reports.** The Planner shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.

4. **Additional Information.** City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and to establish performance conditions in relation to all pertinent sections of this Title. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

5. Meeting with the Planner and Staff. The applicant or a representative thereof shall meet with the Planner and City staff in order to present information and answer questions concerning the proposed requests.
 6. Commission Review and Hearing. The Commission shall conduct a public hearing regarding the site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten (10) days before the date of the hearing to each owner of property situated wholly or partly within one thousand (1,000) feet of the tract to which the petition relates insofar as the names and addresses of such owners can reasonably be determined by the Clerk from records maintained by the Assessor or from other appropriate records. After reviewing the report of the Planner and hearing the oral or written views of all interested persons, the Commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the Council. No new notice need be given for hearings that are continued by the Commission to a specified future date. The Commission shall recommend approval by the Council upon finding that the proposed development meets the standards of Section 850 of City Code.
 7. Council Hearing and Decision. The Council shall conduct a public hearing on the site plan in the same manner as the Commission above.
- G. Standards. In evaluating a site plan, the Planning Commission and City Council shall consider its compliance with the following:
1. Consistency with the elements and objectives of the City's development guides, including the Comprehensive Plan and Water Resources Management Plan; and
 2. Consistency with this Ordinance.
- H. Information Required. The information required for all site plan applications consist of the following items, and shall be submitted unless waived by the Planner.
1. Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
 - a. scale of plan (engineering scale only, at one inch equals fifty feet (1" = 50') or less.);
 - b. north point indication;
 - c. existing boundaries with lot dimension and area;
 - d. existing site improvements;
 - e. all encroachments;
 - f. easements of record;
 - g. legal description of the property; and

- h. ponds, lakes, springs, rivers or other waterways bordering on or running through the subject property.
2. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
- a. name and address of developer/owner;
 - b. name and address of architect/designer;
 - c. date of plan preparation;
 - d. dates and description of all revisions;
 - e. name of project or development; and
 - f. all proposed improvements, including:
 - i. required and proposed setbacks;
 - ii. location, setback and dimensions of all proposed buildings and structures;
 - iii. location of all adjacent buildings located within one hundred (100) feet of the exterior boundaries of the property in question;
 - iv. location, number, dimensions, and setbacks of proposed parking spaces and drive aisles;
 - v. location, number, and dimensions of proposed loading spaces;
 - vi. location, width, and setbacks of all curb cuts and driveways;
 - vii. vehicular circulation;
 - viii. sidewalks, walkways, trails;
 - ix. location and type of all proposed lighting, including details of all proposed fixtures;
 - x. location of recreation and service areas;
 - xi. location of rooftop equipment and proposed screening;
 - xii. provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures; and
 - xiii. location, sizing, and type of water and sewer system mains and proposed service connections.
3. Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:

- a. existing contours at two (2) foot intervals (may be prepared by a Minnesota licensed surveyor);
 - b. proposed grade elevations at two (2) foot maximum intervals;
 - c. drainage plan, including the configuration of drainage areas and calculations;
 - d. storm sewer, catch basins, invert elevations, type of castings, and type of materials;
 - e. spot elevations (may be prepared by a Minnesota licensed surveyor);
 - f. proposed driveway grades;
 - g. surface water ponding and treatment areas; and
 - h. erosion control measures.
4. Landscaping plan in accordance with Section 850.10. Landscape plan must use a copy of the current certificate of survey as a base for the site in question, depicting the following:
- a. planting schedule (table) containing:
 - i. symbols;
 - ii. quantities;
 - iii. common names;
 - iv. botanical names;
 - v. sizes of plant material;
 - vi. root specification (bare root, balled and burlapped, potted, etc.); and
 - vii. special planting instructions.
 - b. location, type and size of all existing significant trees to be removed or preserved;
 - c. planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone);
 - d. typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like;
 - e. typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used;
 - f. note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques;
 - g. delineation of both sodded and seeded areas with respective areas in square feet;

- h. coverage plan for underground irrigation system, if any;
 - i. where landscape or manmade materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation; and
 - j. other existing or proposed conditions which could be expected to affect landscaping.
5. Other plans and information as required by the Planner including, but not limited to:
- a. architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces);
 - b. "typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity;
 - c. fire protection plan;
 - d. type, location and size (area and height) of all signs to be erected upon the property in question;
 - e. vicinity map showing the subject property in reference to nearby highways or major street intersections; and
 - f. lighting plan.
- I. Plan Modifications. Minor changes may be authorized by the Planner only one time. Changes are considered minor if:
- 1. There is no increase to the proposed number of dwelling units; and
 - 2. Any proposed increase in the floor area of structures on site does not exceed five percent (5%) of the gross floor area; and
 - 3. All proposed revisions comply with City Code requirements; and
 - 4. There is no change to any condition required in a site plan approval, including building materials and color; and
 - 5. The property is not located in an Edina Heritage Landmark District.

All other plan modifications shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

J. Existing Approved Final Development Plan. All existing approved Final Development Plans as of 12-21-2010 are now deemed to be approved site plans.

K. Lapse of Approved Site Plan by Non-User; Extension of Time.

- 1. If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for site plan, has not begun within two (2) years after site

plan approval, the approval shall be null and void unless a petition for extension of time in which to commence the proposed work or improvements has been granted.

2. A petition for extension shall be made in writing and filed with the City Clerk within such two (2) year period. The petition shall state reasons showing why a building permit has not been obtained, or why erection or alterations have not commenced, and shall state the additional time requested to begin the proposed work or improvement. The petition shall be presented to the Council for hearing and decision in the same manner as then required for an original application. The Council may grant an extension of up to one (1) year upon finding that:

- a. there is a reasonable expectation that the proposed work or improvement will commence during the extension; and
- b. the facts which were the basis for approving the final development plan have not materially changed. No more than one (1) extension shall be granted.

Subd. 4 Rezoning.

A. Initiation of Rezoning Process.

1. A petition for rezoning may be initiated by the owner of land proposed for rezoning, the Council or the Commission.
2. A petition by an owner shall be on forms provided by the Planner, shall be submitted with plans, data and information required by this Section, and such other information that the Planner believes necessary for evaluation of the petition. The petition shall be accompanied by the fee set forth in Section 185 of this Code.

B. Sign. The petitioner for rezoning shall erect, or cause to be erected, at least one (1) sign per street frontage on the land described in the petition. The sign or signs shall be of a design approved by the Planner, shall be thirty-six (36) inches by sixty (60) inches in size, shall have letters at least four (4) inches high using Helvetica medium typeface or other letter style approved by the Planner, shall be constructed of sturdy material, shall be neatly lettered, and shall be easily viewable from, and readable by persons on, the adjoining street. The sign or signs shall contain the following information:

"This property proposed for rezoning by:
(Name of Petitioner or Applicant)
(Telephone Number of Petitioner or Applicant)
For information contact Edina Planning Department:
Telephone No. 952-927-8861"

The sign shall be kept in good repair and shall be maintained in place until a final decision on the petition has been made by the Council, and shall be removed by the petitioner within five (5) days after the final decision. The failure of any petitioner to comply fully with the provisions of this paragraph relating to the sign shall not prevent the Commission and Council from acting on the petition nor invalidate any rezoning granted by the Council. If the signs are not kept in good repair or removed as required, then the signs shall be deemed a nuisance and may be abated by the City by proceedings under M.S. 429, or any other then applicable provisions of this Code or State Law, and the cost of abatement, including administrative expenses and attorneys' fees, may be levied as a special assessment against the property upon which the sign is located.

C. Procedure for Rezoning

1. Preliminary Rezoning and Site Plan. The petition for rezoning shall include a preliminary site plan with the required data and information in Section 850.04 Subd. 3. above.
2. Commission Review and Hearing. Upon receipt of the petition, fee and all other required information, in form and substance acceptable to the Planner, the Planner will review the petition, preliminary site plan and the other information provided by the petitioner, and forward a report to the Commission. The Commission shall conduct a public hearing regarding the petition and preliminary site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten (10) days before the date of the hearing to each owner of property situated wholly or partly within one thousand (1,000) feet of the tract to which the petition relates insofar as the names and addresses of such owners can reasonably be determined by the Clerk from records maintained by the Assessor or from other appropriate records. After reviewing the report of the Planner and hearing the oral or written views of all interested persons, the Commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the Council. No new notice need be given for hearings that are continued by the Commission to a specified future date.
3. Council Hearings and Decision; Preliminary Zoning Approval. Upon request of the Planner, Manager or petitioner, and after review and recommendation by the Commission, the Council shall conduct a public hearing regarding the petition and preliminary site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten (10) days before the date of the hearing to each owner of property situated wholly or partly within one thousand (1,000) feet of the tract to which the petition relates insofar as the names and addresses of such owners can reasonably be determined by the Clerk from records maintained by the Assessor or from other appropriate records. After hearing the oral or written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future date. No new notice need be given for hearings that are continued by the Council to a specified future date. An affirmative vote of three-fifths of all members of the Council shall be required to grant preliminary rezoning approval. Provided, however, a rezoning from any residential zoning district to any nonresidential zoning district shall require an affirmative vote of four-fifths of all members of the Council. If preliminary rezoning approval is granted, the petitioner may prepare a final site plan. In granting preliminary rezoning approval, the Council may make modifications to the preliminary site plan and may impose conditions on its approval. The petitioner shall include the modifications, and comply with the conditions, in the final site plan, or at another time and by other documents, as the Council may require or as shall be appropriate.
4. Final Site Plan. The final site plan shall include all required information and data delineated on the preliminary site plan and, in addition, the required data and information in Section 850.04 Subd. 3. above.
5. Final Rezoning and Site Plan; Commission Review and Hearing. The Planner shall forward a report to the Commission. The Commission shall conduct a public hearing

regarding the final rezoning and site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten (10) days before the date of the hearing to each owner of property situated wholly or partly within one thousand (1,000) feet of the tract to which the petition relates insofar as the names and addresses of such owners can reasonably be determined by the Clerk from records maintained by the Assessor or from other appropriate records. After reviewing the report of the Planner and hearing the oral or written views of all interested persons, the Commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the Council. No new notice need be given for hearings that are continued by the Commission to a specified future date. The Commission may recommend approval by the Council based upon but not limited to the following factors:

- a. is consistent with the Comprehensive Plan;
- b. is consistent with the preliminary site plan as approved and modified by the Council and contains the Council imposed conditions to the extent the conditions can be complied with by the final site plan;
- c. will not be detrimental to properties surrounding the tract;
- d. will not result in an overly intensive land use;
- e. will not result in undue traffic congestion or traffic hazards;
- f. conforms to the provisions of this Section and other applicable provisions of this Code; and
- g. provides a proper relationship between the proposed improvements, existing structures, open space and natural features.

A recommendation of approval by the Commission shall be deemed to include a favorable finding on each of the foregoing matters even if not specifically set out in the approval resolution or the minutes of the Commission meeting.

6. Council Hearing and Decision; Final Rezoning. The Council shall conduct a public hearing on the final rezoning and site plan in the same manner and with the same notices as required for preliminary rezoning approval. After hearing the oral and written views of all interested persons, the Council may accept or reject the findings of the Commission and thereby approve or disapprove the final rezoning and site plan. An affirmative vote of three-fifths of all members of the Council shall be required to grant final rezoning approval. Provided, however, a rezoning from any residential zoning district to any nonresidential zoning district shall require an affirmative vote of four-fifths of all members of the Council.

7. Filing. The approved final site plan shall be filed in the Planning Department.

8. Development. The development of the tract shall be done and accomplished in full compliance with the approved final site plan, as modified by, and with the conditions made by, the Council, and in full compliance with this Section and other applicable provisions of this Code. Applications for building permits shall be reviewed by the Planning Department prior to issuance of such permits to determine if they conform to the provisions of this

Section, the approved final site plan, as modified by, and with the conditions made by, the Council, and other applicable provisions of this Code.

9. Changes to Approved Final Site Plan. Minor changes in the location and placement of buildings or other improvements may be authorized by the Planner. Proposed changes to the approved final site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the final site plan, except that a three-fifths favorable vote of the Council shall be required to authorize the proposed change.

10. Lapse of Approved Final Site Plan by Non-User; Extension of Time.

a. If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for final site plan, has not begun within two (2) years after final development plan approval, the approval shall be null and void unless a petition for extension of time in which to commence the proposed work or improvements has been granted.

b. A petition for extension shall be made in writing and filed with the City Clerk within such two (2) year period. The petition shall state reasons showing why a building permit has not been obtained, or why erection or alterations have not commenced, and shall state the additional time requested to begin the proposed work or improvement. The petition shall be presented to the Council for hearing and decision in the same manner as then required for an original application. The Council may grant an extension of up to one (1) year upon finding that:

i. there is a reasonable expectation that the proposed work or improvement will commence during the extension; and

ii. the facts which were the basis for approving the final development plan have not materially changed. No more than one (1) extension shall be granted.

D. Procedure for Rezoning to a Planned Unit Development (PUD) District.

1. Purpose and Intent. The purpose of the PUD District is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under a conventional zoning district. The decision to zone property to PUD is a public policy decision for the City Council to make in its legislative capacity. The purpose and intent of a PUD is to include most or all of the following:

a. provide for the establishment of PUD (planned unit development) zoning districts in appropriate settings and situations to create or maintain a development pattern that is consistent with the City's Comprehensive Plan;

b. promote a more creative and efficient approach to land use within the City, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability, and general welfare of the City;

c. provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the City's standards to offset the effect of any variations.

Desired design elements may include: sustainable design, greater utilization of new technologies in building design, special construction materials, landscaping, lighting, stormwater management, pedestrian oriented design, and podium height at a street or transition to residential neighborhoods, parks or other sensitive uses;

- d. ensure high quality of design and design compatible with surrounding land uses, including both existing and planned;
- e. maintain or improve the efficiency of public streets and utilities;
- f. preserve and enhance site characteristics including natural features, wetland protection, trees, open space, scenic views, and screening;
- g. allow for mixing of land uses within a development;
- h. encourage a variety of housing types including affordable housing; and
- i. ensure the establishment of appropriate transitions between differing land uses.

2. Applicability/Criteria

- a. Uses. All permitted uses, permitted accessory uses, conditional uses, and uses allowed by administrative permit contained in the various zoning districts defined in Section 850 of this Title shall be treated as potentially allowable uses within a PUD district, provided they would be allowable on the site under the Comprehensive Plan. Property currently zoned R-1, R-2 and PRD-1 shall not be eligible for a PUD.
- b. Eligibility Standards. To be eligible for a PUD district, all development should be in compliance with the following:
 - i. where the site of a proposed PUD is designated for more than one (1) land use in the Comprehensive Plan, the City may require that the PUD include all the land uses so designated or such combination of the designated uses as the City Council shall deem appropriate to achieve the purposes of this ordinance and the Comprehensive Plan;
 - ii. any PUD which involves a single land use type or housing type may be permitted provided that it is otherwise consistent with the objectives of this ordinance and the Comprehensive Plan;
 - iii. permitted densities may be specifically stated in the appropriate planned development designation and shall be in general conformance with the Comprehensive Plan; and
 - iv. the setback regulation, building coverage and floor area ratio of the most closely related conventional zoning district shall be considered presumptively appropriate, but may be departed from to accomplish the purpose and intent described in #1 above.

3. Procedures

- a. Pre-Application Conference. Prior to filing of an application for PUD, the applicant must arrange for and attend a conference with City staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this Title before incurring substantial expense in the preparation of plans, surveys and other data.
- b. Pre-Application Sketch Plan Review. Prior to filing of a PUD, the applicant is encouraged to submit a sketch plan of the project to the City Planner per Section 850.04 Subd. 3.E. The submittal should include a statement providing justification for the PUD, including but not limited to the intended utilization of the items listed in the Purpose and Intent, and Criteria above.
- c. Planning Commission and City Council Review. The Planner shall refer the sketch plan to the Planning Commission and City Council for discussion, review, and informal comment. Any opinions or comments provided to the applicant by the Planner, Planning Commission, and City Council shall be considered advisory only and shall not constitute a binding decision on the request. There shall be no official application made for a sketch plan. It is an informal review and comment by planning commission and City Council.
- d. Preliminary Development Plan and Preliminary Rezoning. Preliminary development plan submissions may depict and outline the proposed implementation of the sketch plan for the PUD. The preliminary development Plan submissions shall include, but not be limited to, the submission requirements stipulated in Section 850.04. Subd. 3. Preliminary rezoning process is stipulated in Section 850.04 Subd. 4.C.
- e. Final Development Plan and Final Rezoning. After approval of the preliminary development plan, the applicant may apply for a final development plan and final rezoning approval for all or a portion of the PUD. The final development plan submissions shall include, but not be limited to, the submission requirements stipulated in Section 850.04 Subd. 3. Final rezoning process is stipulated in Section 850.04. Subd. 4.C.

Final rezoning to PUD becomes official upon adoption of an ordinance rezoning the property.

E. Restriction on Rezoning After Denial of Petition. After the Council has denied a petition for rezoning, the owner of the tract to which the petition related may not file a new petition for a period of one year following the date of such denial for transferring the same tract, or any part, to the same district or subdistrict (if the district has been divided into subdistricts) to which such transfer was previously denied. Provided, however, that such petition may be filed if so directed by the Council on a three-fifths favorable vote of all members of the Council after presentation to the Council of evidence of a change of facts or circumstances affecting the tract.

F. Text Amendments. Amendments to the Zoning Ordinance other than Rezoning.

1. A petition for a text amendment may be initiated by the owner of affected land, the Council or the Commission. A petition by an owner shall be on forms provided by the

Planner and such other information that the Planner believes necessary for evaluation of the petition. The petition shall be accompanied by the fee set forth in Section 185 of this Code.

2. Commission Review and Hearing. Upon receipt of the petition, fee and all other required information, in form and substance acceptable to the Planner, the Planner will review the petition, and the other information provided by the petitioner, and forward a report to the Commission. The Commission shall conduct a public hearing regarding the petition. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. After reviewing the report of the Planner and hearing the oral or written views of all interested persons, the Commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the Council. No new notice need be given for hearings that are continued by the Commission to a specified future date.

3. Council Hearings and Decision. After review and recommendation by the Commission, the Council shall conduct a public hearing regarding the proposed text amendment. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. After hearing the oral or written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future date. No new notice need be given for hearings that are continued by the Council to a specified future date. An affirmative vote of three-fifths of all members of the Council shall be required to approve a text amendment.

Subd. 5 Conditional Use Permits.

A. Initiation of Conditional Use Permit. An application for a conditional use permit may be initiated by the owner or owners of the lot or building in question.

1. The application shall be on forms provided by the Planner and shall be submitted with required plans, data and information, and such other information as, in the opinion of the Planner, is necessary for evaluation of the application. The application shall be accompanied by the fee set forth in Section 185 of this Code.

B. Sign. All provisions and requirements in this Subsection relating to erection of a sign in connection with a rezoning of property shall apply to the applicant for a conditional use permit, and the applicant shall comply with all such provisions and requirements, except that the sign shall state that a conditional use permit is proposed for the property instead of rezoning.

C. Application Data.

1. If the conditional use permit is requested to allow a principal or accessory use that requires the construction of a new building or accessory use facilities, or additions or enlargements to an existing building or accessory use facilities, the application shall be drawn to a scale acceptable to the Planner, and be accompanied by plans containing the following data and information:

a. elevation drawings of all new buildings or accessory use facilities, or additions and enlargements to existing buildings or accessory use facilities, including a description of existing and proposed exterior building materials;

- b. the location, dimensions and other pertinent information as to all proposed and existing buildings, structures and other improvements, streets, alleys, driveways, parking areas, loading areas and sidewalks;
 - c. a landscape plan and schedule in accordance with Subsection 850.10;
 - d. a floor plan showing the location, arrangement and floor area of existing and proposed uses; and
 - e. any other information required, in the opinion of the Planner, to evaluate the application, to determine consistency with the Comprehensive Plan, and to ensure compliance with the requirements contained in this Section and other applicable provisions of this Code.
- 2. If the conditional use permit is requested to allow a principal or accessory use that does not require construction of a new building or accessory use facilities, or additions or enlargements to an existing building or accessory use facilities, the application shall be accompanied by plans showing:
 - a. the location, arrangement and floor area of existing and proposed uses;
 - b. the location, dimensions and other pertinent information as to all buildings, structures, streets, alleys, driveways, parking areas, loading areas, sidewalks and landscaping; and
 - c. any other information required, in the opinion of the Planner, to evaluate the application, determine consistency, with the Comprehensive Plan, and ensure compliance with the requirements contained in this Section and other applicable provisions of this Code.
- D. Commission Review and Hearing. The Commission shall conduct a public hearing regarding the application. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten (10) days before the date of the hearing to each owner of property situated wholly or partly within one thousand (1,000) feet of the tract to which the petition relates insofar as the names and addresses of such owners can reasonably be determined by the Clerk from records maintained by the Assessor or from other appropriate records. Notification distance shall be three hundred and fifty (350) feet for Conditional Use Permits required under Section 850.11. Subd. 2.I. and Section 850.12. Subd. 3.A. After reviewing the report of the Planner and hearing the oral or written views of all interested persons, the Commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the Council. No new notice need be given for hearings that are continued by the Commission to a specified future date.
- E. City Council Hearing and Decision. Upon request of the Planner, Manager or applicant, and after review and recommendation by the Commission, the Council shall conduct a public hearing regarding the application. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten (10) days before the date of the hearing to each owner of property situated wholly or partly within one thousand (1,000) feet of the tract to which the application relates insofar as the names and addresses of such owners can reasonably be determined by the Clerk from records maintained by the Assessor. Notification

distance shall be three hundred and fifty (350) feet for Conditional Use Permits required under Section 850.11. Subd. 2.I. and Section 850.12. Subd. 3.A. After hearing the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future date. No new notice need be given for hearings that are continued to a specified future date. The Council shall not grant a conditional use permit unless it finds that the establishment, maintenance and operation of the use:

1. Does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
2. Will generate traffic within the capacity of the streets serving the property;
3. Does not have an undue adverse impact on the public health, safety or welfare;
4. Will not impede the normal and orderly development and improvement of other property in the vicinity;
5. Conforms to the applicable restrictions and special conditions of the district in which it is located as imposed by this Section; and
6. Is consistent with the Comprehensive Plan.

Approval of a conditional use permit requires a three-fifths favorable vote of all members of the Council. A favorable vote by the Council shall be deemed to include a favorable finding on each of the foregoing matters even if not specifically set out in the approval resolution or the minutes of the Council meeting.

F. Conditions and Restrictions. The Commission may recommend that the Council impose, and the Council with or without such recommendation may impose, conditions and restrictions upon the establishment, location, construction, maintenance, operation or duration of the use as deemed necessary for the protection of the public interest and adjacent properties, to ensure compliance with the requirements of this Section and other applicable provisions of this Code, and to ensure consistency with the Comprehensive Plan. The Council may require such evidence and guarantees as it may deem necessary to secure compliance with any conditions imposed. No use shall be established or maintained, and no building or other permit for establishing or maintaining such use shall be granted, until the applicant has met and fulfilled all conditions imposed by the Council to the satisfaction of the Planner.

G. Expansions of Conditional Uses. No use allowed by conditional use permit, or any building or structure accessory thereto, shall be increased in gross floor area or height, nor shall any off-street parking facilities accessory to the building or structure be enlarged in surface area to accommodate additional automobiles, without first obtaining, in each instance, a conditional use permit.

H. Restriction on Resubmission After Denial. No application for a conditional use permit which has been denied by the Council shall be resubmitted for a period of one year following the date of the denial by the Council. Provided, however, that the application may be resubmitted if so directed by the Council on a three-fifths favorable vote of all members of the Council after presentation to the Council of evidence of a change of facts or circumstances affecting the proposed use or tract on which it is to be located.

I. Lapse of Conditional Use Permit by Non-User, Extension of Time.

1. If no use allowed by the conditional use permit has begun within two (2) years from the granting of the conditional use permit, the conditional use permit shall become null and void unless a petition for extension of time has been granted.
2. A petition for extension shall be in writing and filed with the Clerk within two (2) years from the granting of the conditional use permit. The petition for extension shall state facts showing a good faith attempt to use the conditional use permit and shall state the additional time requested to begin the use. The petition shall be presented to the Council for hearing and decision in the same manner as then required for an original application. The Council may grant an extension of the conditional use permit for up to one (1) year upon finding that:
 - a. a good faith attempt to use the conditional use permit has been made;
 - b. there is a reasonable expectation that the conditional use permit will be used during the extension; and
 - c. the facts which were the basis for the findings under which the original conditional use permit was granted have not materially changed. No more than one (1) extension shall be granted. For purposes of this paragraph, a use shall be deemed begun when all work described in the original application, or information provided, has been completed and has received final City approvals and the use is operating for the purposes described in the original application.

J. Filing of Conditional Use Permit. If a conditional use permit is granted, the applicant, at the applicant's expense, shall duly file or record the permit in the proper office to give constructive notice of it. A verified copy of the permit, with the recording data on it, shall be delivered to the Planner. The Council may require that the permit be so recorded or filed, and the verified copy delivered to the Planner, before the permit shall become effective.

Subd. 6 Fees and Charges.

A. Petitions and Applications. Each petition or application filed with or submitted to the City pursuant to this Section shall not be deemed filed or submitted, and the City shall have no duty to process it, to act on it or respond to it, unless and until there is paid to the City the applicable fee for such petition or application, as then required by Section 185 of this Code. This paragraph shall not apply to petitions or applications filed or submitted by the Council, the Commission or any City official in its official capacity.

B. Administrative Expenses and Attorneys' Fees. Each petitioner and applicant, by filing or submitting a petition or application, shall have agreed to pay all administrative expenses and attorneys' fees, with interest and costs as provided, incurred by the City in connection with or as a result of reviewing and acting on such petition or application. If more than one (1) person signs a petition or application, all such signers shall be jointly and severally liable for such expenses and fees, with interest and costs as provided. The expenses and fees to be paid to the City pursuant to this paragraph shall be payable upon demand made by the City, and if not paid within five (5) days after such demand, shall bear interest from the date of demand until paid at a rate equal to the lesser of the highest interest rate allowed by law or two (2) percentage points in excess of the reference rate. The petitioners and applicants shall also pay all costs, including attorneys' fees, incurred by the City in collecting the expenses, fees and interest, with interest on

the costs of collection from the dates incurred until paid, at the same interest rate as is payable on the expenses and fees. For purposes of this paragraph, reference rate shall mean the rate publicly announced from time to time by First Edina National Bank, or any successor, as its reference rate, and if the bank, or its successor, ceases publicly announcing its reference rate, reference rate shall mean the interest rate charged from time to time by the bank on 90-day unsecured business loans to its most creditworthy customers.

Subd. 7 Mailed Notice.

Whenever this Section requires or permits mailed notice to property owners, the failure to give mailed notice, or defects in the notice, shall not invalidate the proceedings, provided a good faith attempt to comply with the applicable notice requirements was made. Any appropriate records may be used by the person responsible for mailing the notice to determine names and addresses of owners.

Subd. 8 Evidence of Ownership.

If, in connection with any petition or application, the Planner requests evidence of ownership of the property to which the petition or application relates, the petitioner or applicant shall obtain, at the petitioner's or applicant's expense, and deliver to the Planner, a title opinion from an attorney acceptable to the Planner, or other evidence of such ownership acceptable to the Planner, in each case addressed to the City. Also, if so requested by the Planner, the petitioner or applicant shall obtain a written consent to the petition or application by all owners of such property as shown by the title opinion or other evidence of ownership and, if the request is made, the City shall have no duty to process, or to act on or respond to, such petition or application until such consents are delivered to the Planner.

Subd. 9 Violation, Penalty, Remedies.

A. Misdemeanor. Any owner or lessee of an entire building or property in or upon which a violation has been committed or shall exist, or any owner or lessee of that part of the building or property in or upon which a violation has been committed or shall exist, shall be guilty of a misdemeanor and subject to the penalties and remedies provided in Subsection 100.09 of this Code.

B. Violation of Conditions in Conditional Use Permits. If any person violates any condition or restriction imposed by the Council in connection with the grant or issuance of a conditional use permit, the City, in addition to other remedies available to it as provided in this Subdivision, may revoke the permit and all rights attributable to such permit. Revocation shall be done in the following manner:

1. The Manager or Planner shall notify the owner and occupant of the property to which such permit exists insofar as the names and addresses of such owner and occupant can reasonably be determined by the Clerk from records maintained by the Assessor, of the violation and request removal within a stated period, but not less than five (5) days.
2. If the violation is not removed within the stated period, the Manager or Planner shall submit a report on the matter to the Council and request a hearing.
3. The Council, upon receipt of the report, shall set a hearing date, and notice shall be given to the owner and occupant at least ten (10) days prior to the hearing.

4. After receiving the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future date.

5. If the hearing is continued to a specified future date, no new notice need be given. If such permit is revoked by the Council, all use, activity and rights allowed by and attributable to such permit shall immediately cease.

850.05 Districts. For the purposes of this Section, the City shall be divided into the following zoning districts:

Single Dwelling Unit District (R-1)

Double Dwelling Unit District (R-2)

Planned Residence District (PRD and PSR)

Mixed Development District (MDD)

Planned Office District (POD)

Planned Commercial District (PCD)

Planned Industrial District (PID)

Regional Medical District (RMD)

Automobile Parking District (APD)

Heritage Preservation Overlay District (HPD)

Floodplain Overlay District (FD)

Building Height Overlay District (HOD)

Planned Unit Development District (PUD)

850.06 District Boundaries. The boundaries of all such districts except the Floodplain Overlay District, shall be as shown in the official Zoning Map entitled "Official Zoning Map", a composite copy of, which reduced in size, is appended to this Code. The Official Zoning Map, with all explanatory information, is adopted by reference and declared to be a part of this Code. The boundaries shown on the Official Zoning Map may be changed by amendment to this Section. The Official Zoning Map shall be on file in the office of the Planning Department and shall be open to public inspection during normal business hours of the City. The boundaries of the Floodplain Overlay District shall be as shown on the Official Floodplain Zoning Map described and identified in Subsection 850.21, as such map is to be interpreted and used as provided in Subsection 850.21.

850.07 General Requirements Applicable to all Districts Except as Otherwise Stated.

Subd. 1 **General.** No building or structure shall be erected, constructed or placed on any property in the City, and no building or structure or property in the City shall be used for any purpose, unless in full compliance with the restrictions and requirements of this Section and other applicable provisions of this Code.

Subd. 2 **Storage of Refuse.**

A. All Properties Except Single Dwelling Unit and Double Dwelling Unit Buildings. All refuse, as defined in Section 705 of this Code, or similar material shall be kept within closed containers designed for such purpose. The containers shall not be located in the front yard and shall be completely screened from view from all lot lines and streets.

B. All Non-Residential Properties Within the 50th and France Commercial District. No non-residential building within the 50th and France Planned Commercial District shall be (i) added to or enlarged in any manner; or (ii) subjected to an alteration whereby the use of any portion of a building is converted to a restaurant without first providing sufficient areas for the storage of refuse and servicing of refuse containers. Areas for the storage of refuse and servicing of refuse containers which existed as of the effective date of this Code shall not be eliminated or reduced in size.

C. Single Dwelling Unit and Double Dwelling Unit Buildings. All refuse, as defined in Section 705 of this Code, or similar materials shall be kept within closed containers designed for such purpose. Such containers shall not be located in the front yard and shall not be visible from the front lot line except as allowed by Section 705 of this Code.

Subd. 3 Dwelling Units Prohibited in Accessory Buildings, Temporary Buildings, Trailers and Recreational Vehicles. No accessory building, temporary building, trailer or recreational vehicle in any district shall be used in whole or in part for a dwelling unit or units, except for accessory buildings which are specifically allowed for residential use by this Section.

Subd. 4 Customary Home Occupations as an Accessory Use.

A. Customary home occupations which are permitted as an accessory use by this Section shall comply with the following conditions:

1. Only the residents of the dwelling unit shall be employed on the lot or within the dwelling unit.
2. No exterior structural modifications shall be made to change the residential character and appearance of the lot or any buildings or structures on the lot.
3. No loading, unloading, outdoor storage of equipment or materials, or other outdoor activities, except parking of automobiles shall occur.
4. No signs of any kind shall be used to identify the use.
5. All parking demands generated by the use shall be accommodated within the accessory garage and the normal driveway area and shall not at any one time occupy more than two parking spaces in parking areas required for multiple residential buildings.
6. No more than ten automobile trips weekly by individuals other than the residents of the dwelling unit shall be generated to the dwelling unit as a result of the use.
7. No sale of products or merchandise shall occur on the lot or within any structures or buildings on the lot.

B. Permitted customary home occupations include the following and similar occupations if, and only during such times as, they comply with all of the conditions of paragraph A.

of this Subd. 4:

1. Dressmakers, tailors and seamstresses.
2. In single dwelling unit and double dwelling unit buildings only, music and dance teachers providing instruction to not more than five individuals at a time.
3. Artists, sculptors and authors.
4. Insurance agents, brokers, architects and similar professionals who typically conduct client meetings outside of the dwelling unit.
5. Ministers, rabbis and priests.
6. Photographers providing service to one customer at a time.
7. Salespersons, provided that no stock in trade is maintained on the lot or in the building or structure on the lot.
8. In single dwelling unit and double dwelling unit buildings only, rental of rooms for residential occupancy to not more than two persons per dwelling unit in addition to the permanent residents of the dwelling unit.

C. The following uses have a tendency to increase in size or intensity beyond the conditions imposed by this Subd. 4 for home occupations and thereby adversely affect residential properties. Therefore, the following shall specifically not be permitted as customary home occupations:

1. Barber shops and beauty parlors.
2. Repair services of all kinds, including, without limitation, auto repair and painting, appliance repair and small engine repair.
3. Music, dance or exercise instruction which provides instruction to groups of more than five individuals at a time.
4. Medical and dental offices.
5. Upholstering.
6. Mortuaries.
7. Commercial kennels as defined by Subsection 300.01 of the City Code.
8. Tourist homes, boarding houses or rooming houses, and other kinds of transient occupancies.
9. Commercial food preparation or catering.
10. Automobile and equipment sales.
11. Landscaping and lawn maintenance service where landscaping materials and equipment are stored or parked on the premises.

D. Permitted customary home occupations by residents who are physically unable to be

employed full time outside their residence may be allowed as a temporary conditional use, with variances from the conditions of paragraph A. of Subd. 4 of this Subsection 850.07, pursuant to the provisions of Subd. 5 of Subsection 850.04.

Subd. 5 Fences in the R-1 and R-2 Districts. Fences erected in the R-1 District and R-2 District shall conform to the following:

- A. Fences exceeding four feet in height shall not be erected within a required front street setback or side street setback, pursuant to the provisions of paragraph 2. of Subd. 7 of Subsection 850.11.
- B. No fence shall exceed six feet in height.
- C. Fences shall be installed with the finished side facing neighboring properties.
- D. No fence shall be installed so as to obstruct a required clear view at street intersections as required by Section 1405 of this Code.

Subd. 6 Exceptions to Setback Requirements. The following shall not be considered as encroachments into required setbacks:

- A. Overhanging eaves not supported by posts or pillars, which do not project more than three feet into the required setback and which are not within three feet of a lot line.
- B. Sidewalks and driveways, but not patios.
- C. Fences which do not exceed the height limitations imposed by this Subsection 850.07.
- D. Awnings and canopies attached to the principal building and not supported by posts or pillars, which do not project more than three feet into the required setback and which are not within three feet of a lot line.
- E. Flagpoles, light poles and fixtures.
- F. Clotheslines and outdoor fireplaces in the rear yard only.
- G. Bus shelters which have been approved by the Engineer.
- H. Unenclosed steps or stoops not exceeding 50 square feet in area.
- I. Fireplaces projecting not more than two feet into the required setback and not exceeding ten square feet in horizontal area.
- J. Underground storage tanks, conduits and utilities.
- K. Portions of principal and accessory buildings or structures which are located completely underground, which are not visible from the surface of the ground and which do not encroach more than one-half of the distance into that part of the required setback nearest the principal or accessory building.
- L. Trees, shrubs and other vegetation.

M. Retaining walls.

N. Freestanding basketball posts, backboards and goals adjacent to a driveway.

O. Unenclosed overhanging eaves or porches supported by posts or columns not exceeding 80 square feet in area, that are not closer than 20 feet to a front property line, 3 feet to a side property line or 10 feet to a side street.

Subd. 7 Drainage. Surface water runoff shall be properly channeled into storm sewers, watercourses, ponding areas or other public facilities. All provisions for drainage, including storm sewers, sheet drainage and swales, shall be reviewed and approved by the Engineer prior to construction or installation.

Subd. 8 Architectural Control. A building permit for the construction of a new non-residential principal building or a new residential principal building containing three or more dwelling units shall not be issued unless the applicant's building plans, including the site plan, are certified by an architect registered in the State. The certification shall state that the design of the building and site has been prepared under the direct supervision of the architect.

Subd. 9 Building Coverage Computations; Exclusions and Inclusions.

A. The following structures and improvements shall be excluded when computing building coverage:

1. Driveways and sidewalks, but not patios.
2. Parking lots and parking ramps.
3. Accessory recreational facilities not enclosed by solid walls and not covered by a roof, including outdoor swimming pools, tennis courts and shuffleboard courts; but facilities which are constructed above grade, such as paddle tennis courts, shall be included when computing building coverage.
4. Unenclosed and uncovered steps and stoops less than 50 square feet.
5. Overhanging eaves and roof projections not supported by posts or pillars.

B. Building coverage computations, however, shall include all other principal or accessory buildings, including, but not limited to:

1. Decks and patios subject to allowances provided by this Section.
2. Gazebos.
3. Balconies.
4. Breezeways.
5. Porches.
6. Accessory recreational facilities constructed above grade, such as paddle tennis courts.

Subd. 10 **Lighting.** All exterior lighting and illuminating devices shall be provided with lenses, reflectors or shades so as to concentrate illumination on the property of the owner or operator of the lighting or illuminating devices. Rays of light or illumination shall not pass beyond the property lines of the premises utilizing the lights or illumination at an intensity greater than three foot-candles measured at property lines abutting property zoned residential and ten foot-candles measured at property lines abutting streets or property zoned non-residential. No light source, lamp or luminaire shall be directed beyond the boundaries of the lighted or illuminated premises.

Subd. 11 **Frontage of Lots on a Street.** All lots shall have at least 30 feet of frontage on at least one street other than alleys or limited access roadways to which private access is prohibited. Private easements shall not be considered as frontage for purposes of this Subdivision. Notwithstanding the requirements of this subdivision, lots in a townhouse plat need not front on a street provided that the townhouse plat of which the lot is a part has at least 30 feet of frontage on at least one street.

Subd. 12 **Certain Sales Prohibited.**

A. Except as provided in Section 1311 of this Code, the sale of goods or merchandise from a motor vehicle, trailer, tent or other temporary or portable building is prohibited in all districts.

B. No property used for residential purposes shall be used for garage sales, estate sales or other sales of personal property for more than one period of 72 consecutive hours in any calendar year. The property offered for sale shall consist only of items owned by the resident or of the premises or by friends of such resident. None of the items offered for sale shall have been purchased for resale or received on consignment for purposes of resale.

Subd. 13 **Platting Requirement.** Any land proposed to be transferred from one zoning district to another shall be platted into lots and blocks pursuant to and in accordance with the requirements of Section 810 of this Code in connection with, and at the time of the transfer. Any land which has been previously platted into lots and blocks shall be likewise replatted to provide new lots and blocks which are compatible in size, shape, location and arrangement with the property's intended use.

Subd. 14 **Drive-Through Facility Standards.**

A. Number of Stacking Spaces in Addition to the Vehicle(s) Being Served.

- | | |
|-----------------------------------|----------------------------|
| 1. Financial institutions: | 3 stacking spaces per bay |
| 2. Car wash: | 25 stacking spaces per bay |
| 3. Accessory car wash: | 2 stacking spaces per bay |
| 4. A restaurant in PCD-1 District | 10 stacking spaces per bay |
| 5. All other uses: | 4 stacking spaces per bay |

B. Location of Stacking Space.

1. No stacking space shall encroach into any drive aisle necessary for the circulation of vehicles.
2. All stacking spaces shall provide the same setbacks as are required by this Section for parking spaces.
3. In the case of uses described in subparagraph 4. of paragraph A. of Subd. 14 above, if the drive-through bay is equipped with a facility for placing an order which is separated from the location at which the product or merchandise is received by the customer, not less than three of the required stacking spaces shall be provided at the ordering point.

C. Minimum Size of Stacking Space. The minimum size of each stacking space shall be nine feet wide by 18 feet deep.

D. Accessory Canopies and Mechanical Equipment. All canopies and equipment appurtenant to a drive-through facility shall provide the same setbacks as are required for principal buildings.

E. Facilities Accessory to Restaurants. Drive-through facilities accessory to restaurants shall be limited to two service windows and two audio systems and menu boards.

F. Restaurant in the PCD-1 District.

1. May only sell coffee, non alcoholic beverages, pastries and donuts from the drive-through window.
2. Hours of operation of the drive-through window shall be limited to 6:00 a.m. to 6:00 p.m.
3. Minimum lot size shall be 1 acre.
4. Levels of noise shall be measured at property lines and shall satisfy established state regulations.
5. No part of the public street or boulevard may be used for stacking of automobiles.
6. Drive-through facilities shall be limited to one service window and one audio system and menu board.

G. Menu board and audio system shall not be located on a side of a building that faces single-family residential homes or property zoned single-family residential.

Subd. 15 **District Limits.** For purposes of calculating the minimum site area, floor area ratio, building coverage, setbacks and all other requirements of this Section, a district or subdistrict shall be deemed not to extend beyond the right-of-way lines of adjacent streets, alleys or highways which were dedicated, conveyed or acquired prior to the transfer of land to that district or subdistrict. Districts which are separated by public streets or highways shall be deemed to be separate and independent districts and all requirements and restrictions contained in this Section must be met separately and independently by each district.

Subd. 16 **Temporary Buildings.**

A. Improved Single Dwelling Unit and Double Dwelling Unit Lots. No temporary or portable building or structure, including, without limitation, any shed, tent or shelter, which is not permanently attached to the ground shall be placed or stored within the required front street or side street setback for the principal building and shall maintain an interior side yard and rear yard setback of not less than five feet.

B. All Other Lots Including Unimproved Single Dwelling Unit and Vacant Double Dwelling Unit Lots. No temporary or portable building or structure, including, without limitation, any shed, tent or shelter, which is not permanently attached to the ground shall be placed or stored upon a lot except as accessory to, and during the construction of, permanent buildings or structures.

Subd. 17 **Outdoor Storage.** All materials, supplies, finished or semi-finished products, motor vehicles, trailers and all equipment shall be stored within a completely enclosed building except:

A. Materials and equipment used for the construction or repair of structures may be stored outdoors on the construction site during construction.

B. Motor vehicles, recreational vehicles and other vehicles may be parked or stored outdoors in accordance with the Section 1046 of this Code.

C. Outdoor storage or displays may take place on lots in the Planned Commercial District in accordance with Subd. 11 of Subsection 850.16.

Subd. 18 **Setbacks from Naturally Occurring Lakes, Ponds and Streams.** Notwithstanding any other requirements of this Section or other provisions of this Code, in cases where a portion of a lot or tract is located below the ordinary high water elevation of a naturally occurring lake, pond or stream, the shoreline created by such an ordinary high water elevation shall be deemed to be the rear lot line or side lot line, as the case may be, for setback purposes. All principal and accessory structures shall maintain a minimum setback of 50 feet from the ordinary high water elevation, except that all principal and accessory structures shall maintain a minimum setback of 75 feet from the ordinary high water elevation of Indianhead Lake, Arrowhead Lake, Mirror Lake and Lake Cornelia.

Subd. 19 **Energy Collection System Setbacks.** Facilities and equipment designed for the collection of solar energy or wind energy shall maintain the same setbacks as are required for principal buildings or structures and shall not be located within the front yard.

Subd. 20 **Non-Conforming Uses, Buildings and Lots.**

A. Non-Conforming Buildings.

1. Alterations, Additions and Enlargements.

a. A nonconforming building, other than a single dwelling unit building, shall not be added to or enlarged, in any manner, or subjected to an alteration involving fifty percent (50%) or more of the gross floor area of the building, or fifty percent (50%) or more of the exterior wall area of the building, unless such non-conforming building, including all additions, alterations and enlargements, shall conform to all of the restrictions of the district in which it is located. The percentage of the gross floor area or exterior wall area subjected to

an alteration shall be the aggregate percentage for any consecutive three (3) year period.

b. Alternate setbacks. An addition to a single dwelling unit building with a nonconforming setback, or an addition to a structure accessory to a single dwelling unit building with a nonconforming setback, may be constructed within the existing nonconforming setback, which is the shortest distance from the applicable lot line to the existing structure, subject to the following limitations:

- i. the addition shall not exceed the existing square footage encroachment into the nonconforming setback or two hundred (200) square feet, whichever is less; and
- ii. the addition may only be constructed on the same floor as the existing encroachment into the nonconforming setback.

2. Nonconformities. Except as provided in Section 850.21, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this Chapter, unless:

- a. the nonconformity or occupancy is discontinued for a period of more than one (1) year; or
- b. any nonconforming use is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged. In these cases, the City of Edina may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

B. Non-Conforming Lots. A non-conforming lot in the R-1 District used or intended for a single dwelling unit building shall be exempt from the width, depth, area and lot width to perimeter ratio requirements of this Section, provided, that the lot:

1. Is not less than 50 feet in width;
2. Is not less than 100 feet in depth;
3. Has at least 30 feet frontage on a street; and
4. Has not been at any time since October 22, 1951, been held in common ownership with all or part of an adjoining or abutting lot or parcel which, together, complied with the minimum width, depth and area and lot width to perimeter ratio requirements imposed by this Section. If such lot and adjoining or abutting lot or parcel has been held in such common ownership, then the property so held in common ownership shall be subject to the following:

- a. if a non-conforming lot or parcel is, or at any time since October 22, 1951, has been, held in common ownership with all or part of an

adjoining or abutting parcel or lot which together comply with, or come close to complying with, the minimum width, depth, area, and lot width to perimeter ratio, requirements of this Section, then such non-conforming lot or parcel and such adjoining or abutting parcel or lot shall be considered as one lot and shall not be decreased in size below such minimum requirements. If in a group of two or more adjoining or abutting lots or parcels owned or controlled by the same person, any single lot or parcel does not meet the full minimum depth, width, area or lot width to perimeter ratio requirements of this Section, such single lot or parcel shall not be considered as a separate lot or parcel able to be conveyed and developed under this Code.

Subd. 21 Relocation of Buildings and Structures. No building or structure shall be moved, in whole or in part, into or within the City, unless every portion of such building and structure, and its use, conforms to all of the restrictions of the district in which it is to be located. The moving or relocation of a building or structure shall be undertaken and done only in accordance with applicable provisions of Section 410 of this Code and State Law.

Subd. 22 Signs. Signs erected in accordance with Section 460 of this Code shall be a permitted accessory use in all districts.

Subd. 23 Utility Buildings and Structures.

A. **Utility Buildings and Structures Owned by the City.** Utility buildings and structures owned by the City and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a permitted principal or accessory use in all districts.

B. **Other Utility Buildings and Structures.** Utility buildings and structures owned by private utility companies or governmental units other than the City, and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a conditional use in all districts and shall only be constructed pursuant to a conditional use permit granted in accordance with Subd. 4 of Subsection 850.04.

C. **Utility poles and wires, water, gas, electric and mechanical equipment regulations:**

1. If the footprint is 36 square feet in area or less, and 6 feet in height, utility and/or mechanical equipment shall be permitted at any location in a front, side or rear yard with no minimum setback from any property line. If utility or mechanical equipment is located within city right-of-way a permit is required.

2. If the footprint is larger than 36 square feet in area or 6 feet in height, utility and/or mechanical equipment shall be required to meet all setback requirements in the underlying zoning district. Utility and mechanical equipment that is grouped together and in the aggregate exceeds 36 square feet in area shall also be required to meet all setback requirements in the underlying zoning district.

3. Air conditioning units and privately owned mechanical equipment in the R-1 and R-2 Zoning Districts shall comply with the setback requirements for accessory buildings and structures in accordance with Section 850.11.Subd. 6.B.4.g.

4. All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be screened from all lot lines and streets in accordance with Section 850.10. Subd. 2.C.

5. Noise from mechanical equipment shall be subject to the City's Noise regulations in accordance with Section 1040.

Subd 24 Sidewalks, Trails, Bicycle Facilities. In order to promote and provide safe and effective sidewalks and trails in the City and encourage the use of bicycles for recreation and transportation, the following improvements are required, as a condition of approval, on developments requiring the approval of a Final Development Plan or the issuance of a conditional use permit pursuant to Subsection 850.04. The expense of such improvements shall be borne by the applicant.

- A. It is the policy of the City to require the construction of sidewalks and trails wherever feasible so as to encourage pedestrian and bicycle connectivity throughout the City. Therefore, developments shall provide sidewalks and trails which adjoin the applicant's property i) in locations shown on the City's sidewalk and trail plan and ii) in other locations where the Council finds that the provision of such sidewalks and trails enhance public access to mass transit facilities or connections to other existing or planned sidewalks, trails or public facilities.
- B. Developments shall provide sidewalks between building entrances and sidewalks or trails which exist or which will be constructed pursuant to this Subd.
- C. Developments shall provide direct sidewalk and trail connections with adjoining properties where appropriate.
- D. Developments must provide direct sidewalk and trail connections to transit stations or transit stops adjoining the property.
- E. Design standards for sidewalks and trails shall be prescribed by the Engineer.
- F. Non-residential developments having an off-street automobile parking requirement of 20 or more spaces must provide off-street bicycle parking spaces where bicycles may be parked and secured from theft by their owners. The minimum number of bicycle parking spaces required shall be five percent of the automobile parking space requirement. The design and placement of bicycle parking spaces and bicycle racks used to secure bicycles shall be subject to the approval of the Engineer. Whenever possible, bicycle parking spaces shall be located within 50 feet of a public entrance to a principal building.

850.08 Parking and Circulation.

Subd. 1 Minimum Number of Spaces Required.

A. Single Dwelling Units, Double Dwelling Units and Residential Townhouses. Two fully enclosed spaces per dwelling unit.

B. Apartment Buildings in the PRD District.

- 1. 1.25 fully enclosed spaces and 0.75 exposed spaces per dwelling unit.

2. The required number of exposed spaces may be reduced to not less than 0.5 spaces per dwelling unit if the number of enclosed spaces is increased by a like amount so that the total number of exposed and enclosed spaces equals not less than two per dwelling unit.

C. Senior Citizen Dwelling Unit Buildings in the PSR-4 and PSR-5 Subdistricts.

1. 0.5 exposed spaces and 0.25 enclosed spaces per senior citizen dwelling unit.
2. In addition to subparagraph 1, the following spaces are required:
 - a. one completely enclosed and one exposed space for each non-senior citizen dwelling unit located in a building in the Planned Senior Residence District;
 - b. one completely enclosed space per vehicle owned by the building's management and stored on the property; and
 - c. one exposed space for each employee who is not a resident of the building.

D. Nursing, Convalescent and Rest Homes. One space for every four patients or residents based on the maximum capacity of the building, plus one space per employee on the major shift, plus one space per vehicle owned by the building's management.

E. Day Care, Nurseries and Preschools (Principal Use). One space per teacher or employee, plus one space per 20 individuals (or major fraction) receiving care.

F. Public or Private Senior High Schools and Seminaries. One space per classroom plus one space per ten students, or spaces equal in number to one-third the maximum seating capacity of the largest place of assembly, whichever is greater.

G. Public or Private Elementary or Junior High Schools. Two spaces per classroom, or spaces equal in number to one-third the maximum seating capacity of the largest place of assembly, whichever is greater.

H. Community Centers. Spaces equal in number to one-third the maximum seating capacity of the largest place of assembly, or one space for each 200 square feet of gross floor area, whichever is greater.

I. Churches and Other Religious Institutions. Spaces equal in number to one-third the maximum seating capacity of the largest place of assembly, plus spaces for other church facilities which are used concurrently with the largest place of assembly, the number of which shall be determined by the Council in connection with the granting of a conditional use permit.

J. Theaters (Except Within Shopping Centers), Stadiums, Auditoriums, Arenas, Lodge Halls, Mortuaries and Club Houses. Spaces equal in number to one-third the maximum seating capacity, plus one space for each employee on the major shift.

K. Governmental Administration, Public Service, Post Office. The greater of:

1. One space per employee on the major shift, plus one space per government-owned vehicle, plus ten visitor spaces; or
 2. One space for each 200 square feet of gross floor area.
- L. Libraries, Art Galleries. Ten spaces, plus one space for each 300 square feet of gross floor area.
- M. Medical or Dental Offices, Clinics and Animal Hospitals. One space for each 200 square feet of gross floor area, plus one space per physician, dentist or veterinarian.
- N. Hospitals. One space per bed, plus one space per employee or volunteer on the major shift.
- O. Athletic, Health, and Weight Reduction Facilities.
1. Six spaces per court for handball, racquetball and tennis courts.
 2. One space per 200 square feet of gross floor area for all other uses.
- P. Restaurants (Except Within Shopping Centers). Spaces equal in number to one-third the maximum seating capacity, plus one space for each employee on the major shift.
- Q. Car Washes. One space per employee on the major shift, plus five spaces for each wash lane, plus stacking spaces in accordance with Subd. 14 of Subsection 850.07.
- R. Accessory Car Washes. Two parking spaces, plus stacking spaces in accordance with Subd. 14 of Subsection 850.07.
- S. Gas Stations. One space per employee on the major shift, plus one space for each 100 square feet of accessory retail uses in excess of 500 square feet exclusive of restrooms, storage areas and mechanical equipment.
- T. Automobile Service Centers. Three parking spaces per service bay, plus one space per employee on the major shift, plus one space for each 100 square feet of accessory retail uses in excess of 500 square feet exclusive of restrooms, storage areas and mechanical equipment.
- U. Bowling Alleys. Five spaces per lane.
- V. Offices, Medical and Dental Laboratories, Business or Professional Offices, Financial Institutions, Employment Agencies and Travel Bureaus.

<u>Gross Floor Area (GFA)</u>	<u>Number of Spaces</u>
0 – 20,000 sq. ft.	GFA/200
20,001 – 220,000 sq. ft.	$GFA / \{(0.00025 * GFA) + 195\}$
Over 220,000 sq. ft.	GFA/250

W. Mixed Development District.

1. Residential: one enclosed space, plus 0.75 exposed space, per dwelling unit.
2. Non-Residential (excluding publicly owned facilities and uses accessory to residential uses):

<u>Gross Floor Area (GFA)</u>	<u>Number of Spaces</u>
0 – 20,000 sq. ft.	GFA/200
20,001 – 220,000 sq. ft.	$GFA / \{ (0.0005 * GFA) + 190 \}$
Over 220,000 sq. ft.	GFA/300

X. Multi-Tenant Industrial Buildings. One space for each 400 square feet of gross floor area, or the sum of the component gross floor areas as follows, whichever is greater:

1. One space for each 200 square feet of office space.
2. One space for each 2,000 square feet of warehouse space.
3. One space for each 300 square feet of manufacturing, processing, packaging, treatment and assembly space.
4. One space for each 500 square feet of space containing machines and equipment for conducting scientific research, testing or experimentation.
5. One space for each 200 square feet of facilities for athletic, health and weight reduction purposes; six spaces per court for handball, racquetball or tennis.

Y. Automobile and Boat Sales - New or Used. One space per 250 square feet of gross floor area, including show rooms, sales space and offices, but excluding service areas, plus three spaces for each service bay. Required parking spaces shall not be used for the storage or display of vehicles, boats or other products.

Z. Furniture and Major Appliance Sales.

1. Over 2,500 square feet of gross floor area: one space per 400 square feet of gross floor area.
2. Under 2,500 square feet of gross floor area: one space per 200 square feet of gross floor area.

AA. Hotels and Motels. One space per guest unit, plus one space for each employee on the major shift.

BB. Uses Allowed in the Planned Commercial Districts Except Uses For Which a Parking Quantity is Otherwise Specified.

1. Shopping Centers. One space per 200 square feet of gross floor area (including theaters and restaurants), plus one additional space for each ten seats in a restaurant, theater or other place of assembly. Atrium areas and mall areas not used for retail sales purposes shall be excluded from gross floor area calculations.

2. Other Retail. Eight spaces for the first 1,000 square feet, plus six spaces for each 1,000 square feet of gross floor area in excess of the original 1,000, but not exceeding 15,000 square feet, plus five spaces for each 1,000 square feet in excess of 15,000 square feet.

3. Multi-Residential Uses. One fully-enclosed parking space for each dwelling unit, except that dwelling units with a floor area in excess of 1,500 square feet must provide 1.50 fully-enclosed parking spaces per dwelling unit. Such parking spaces must be designed for the exclusive use of residents of the dwelling units and their guests. The Council may require the provision of exposed parking spaces in addition to the required enclosed spaces as a condition to the issuance of a conditional use permit.

For the purpose of determining parking requirements in places of assembly where persons occupy benches, pews and similar seating facilities, each 22 inches of the seating facilities shall be counted as one seat.

Subd. 2 Use of Public Parking to Meet Off-Street Parking Requirements.

A. Any principal use on property located within a redevelopment project approved by the Council pursuant to M.S. 462, or M.S. 469.001 to 469.047 which principal use was in existence on the date the project was approved, and which project provides for public parking to serve the project area, may be reconstructed, or a new principal use constructed, on the same property without providing off-street parking additional to that provided for public parking. Provided, that the reconstructed or new principal use does not contain more gross floor area than the prior principal use, and is for uses which do not increase the number of required off-street parking spaces beyond those required for the uses in the prior principal use.

B. If any increase in the size, or changes in the uses, of such an existing principal use is made beyond the size or for other than the uses above allowed, then additional off-street parking spaces shall be provided, pursuant to this Section, but only for the additional spaces resulting from the increase in size or changes in uses.

Subd. 3 Location.

A. Non-Residential Principal Uses. The required number of off-street parking spaces shall be located on the same lot as the principal use or on an adjacent lot under the control of the owner of the principal use. For purposes hereof, "control" may be derived from ownership, or by a lease or easement continuing for a period of not less than 25 years. The required parking spaces shall not be separated from the principal use building by a street. Seventy-five percent of all required spaces shall be located within 500 feet of the entrances to the principal use building and 100 percent shall be within 1,000 feet.

B. Residential Principal Uses. The required number of off-street parking spaces shall be located on the same lot as is occupied by the principal use. The required parking spaces shall not be separated from the principal use building by a street.

Subd. 4 Setbacks (Not Applicable to Single Dwelling Unit Buildings and Double Dwelling Unit Buildings). No exposed parking spaces, required stacking spaces or drive aisles (except that portion of the driveway crossing the public right of way to give access to the street) shall be located within twenty feet of a public street right-of-way or within ten feet of an interior side lot

line or a rear lot line. Interior side yard and rear yard setbacks shall be measured from the boundary of the tract. No parking space or drive aisle shall be located within ten feet of any principal use building.

Parking ramps shall comply with the requirements of Paragraph G of Subd 5 of this Subsection 850.08.

Subd. 5 Design and Construction.

A. Size

1. Full Size Spaces.

<u>Space Angle</u>	<u>Space Width</u>	<u>Drive Length</u>	<u>Aisle Width</u>
90°	8 ½ feet	18 feet	24 feet
60°	9 feet	18 feet	18 feet
45°	9 feet	18 feet	12 feet

2. Compact 1 Size Spaces.

<u>Space Angle</u>	<u>Space Width</u>	<u>Drive Length</u>	<u>Aisle Width</u>
90°	7 ½ feet	16 feet	24 feet
60°	8 feet	16 feet	18 feet
45°	8 feet	16 feet	12 feet

B. Compact Parking Spaces. Within the Planned Office District, Regional Medical District and Planned Industrial District only, not more than 20 percent of all required parking spaces may be compact spaces. In all other districts, no compact spaces shall be counted as required parking. Compact spaces shall be clearly identified by signs mounted on sign posts in order that they are visible at all times. Signs which are painted on the pavement shall not be permitted for this purpose. Compact parking spaces shall be located in one contiguous area to the greatest possible extent and, where possible, limited to proposed employee parking areas. It is the purpose and intent to limit compact parking spaces to areas used for long-term employee parking rather than short-term visitor parking.

C. Bumper Overhangs. The minimum parking space length as required may be decreased by 1.5 feet for full size parking spaces and 1.0 foot for compact spaces which allow the bumper of the automobile to project beyond the terminus of the parking space without obstructing other parking spaces or vehicle circulation areas.

D. Joint Parking Facilities in the Planned Commercial District and Mixed Development District. Parking spaces serving two or more buildings, lots or uses in the Planned Commercial District and the Mixed Development District may be located in the same off-street parking area, provided that:

1. The total number of spaces furnished shall not be less than the sum of the separate requirements for each use; and
2. All parking spaces shall comply with all requirements as to location and control as provided by paragraph A. of Subd. 3 of Subsection 850.08.

E. Nighttime Uses. Nighttime uses, as below defined, which share parking facilities with daytime uses may reduce their required number of parking spaces by 50 percent, provided that:

1. The total number of spaces normally required for nighttime uses is provided within the parking area in combination with parking spaces provided for daytime uses;
2. The total number of parking spaces normally required for nighttime use conforms to all requirements as to location and control as provided by paragraph A. of Subd. 3 of Subsection 850.08; and
3. In the opinion of the Planner, the peak hours of operation of the nighttime use will not coincide with the peak hours of other uses sharing the joint parking facility so as to cause a parking shortage.

For the purposes hereof, nighttime uses are limited to theaters; facilities for athletic, health and weight control including handball courts, racquet courts, tennis courts, reducing salons and aerobic dance studios; bowling alleys; and club and lodge assembly halls. Provided, however, that uses which are located within a shopping center or Mixed Development District shall not be deemed nighttime uses and shall not be eligible for reduction of parking requirements due to nighttime uses.

F. Construction. Off-street parking spaces and circulation areas shall be surfaced and maintained with an all-weather, durable and dust-free surfacing material. Except for residential uses in the R-1 District and R-2 District, each parking space shall be clearly delineated by lines painted on or imbedded in the surface of the parking area.

G. Parking Ramps. In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply to parking ramps:

1. The front street and side street setback shall be not less than 20 feet and the interior side yard and rear yard shall be not less than 10 feet. The minimum setbacks shall be increased by one foot for every foot that the parking ramp exceeds 20 feet in height. No parking ramp or any part thereof, shall be located within 50 feet of the nearest lot line of any property in an R-1 District used for residential purposes.
2. The front street or side street setback for parking ramps and garages, and other structures, shall be increased to 50 feet when the ramp, garage or structure is located across the street from a property in an R-1 District used for residential purposes.
3. All exterior wall finishes of a parking ramp shall be of materials that architecturally complement the building or buildings that the parking ramp serves through the use of exterior materials, architectural elements and colors and shall be one or a combination of the following:

- a. Face brick.
 - b. Natural stone.
 - c. Specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture.
4. Parking ramps must include architectural elements that enhance the structure, reduce its perceived mass and complement the building or buildings that it serves. Architectural elements shall include decorative pilasters, banding, reveals, accents, wall plane articulation, facade treatments, and ornamental grillwork as appropriate.
 5. Parking ramps must include screening or other appropriate design elements to screen the visibility of vehicle headlights from outside of the parking ramp.
 6. The City encourages parking ramp designs that include ground floor retail, service and other uses, allowed by the zoning district in which the parking ramp is located. Such uses which are integrated into the parking ramp structure need not maintain front street and side street setbacks greater than that required for the parking ramp.

Subd. 6 Traffic and Circulation.

A. General Requirements. Vehicular traffic shall be channeled and controlled in a manner that will avoid congestion and traffic hazards on the lot or tract or on adjacent streets. Traffic generated by the use shall be directed so as to avoid excessive traffic through residential areas. No parking area, stacking area or circulation area, except for driveway ingresses and egresses, shall be located within a street, alley or highway.

B. Review by Engineer. The adequacy of any proposed traffic circulation system on a lot or tract shall be subject to the review of the Engineer who may require additional measures for traffic control to accomplish the orderly and safe movement of traffic including, but not limited to, the following:

1. Directional signalization.
2. Channelization.
3. Turn lanes.
4. Increased street width.
5. Warning lights.
6. Stacking lanes.
7. Location, number and width of curb cuts.

C. Circulation Within Parking Areas.

1. Unobstructed access to each parking space from a drive aisle shall be provided.

2. Traffic moving from one part of a parking area to another shall be capable of doing so without using a street.
3. Dead end drive aisles shall not be permitted.
4. Parking spaces oriented at an angle of less than 90 degrees to the drive aisle shall be served only by way of one-way drive aisles.

D. Driveway Design.

1. Driveway Width:

- a. In all zoning districts except R-1 and R-2 (back of curb to back of curb)

	<u>Maximum</u>	<u>Minimum</u>
One-way	20 feet	12 feet
Two-way	30 feet	24 feet

- b. There are no minimum widths in the R-1 and R-2 zoning districts.
- c. Maximum driveway width at street curb: 30 feet exclusive of returns as measured along the curb line of the street.
- d. Minimum distance between driveways in all districts except R-1 and R-2: 20 feet between ends or returns as measured along the curb line of the street.
- e. Minimum distance of driveway from street intersections: 50 feet between ends or returns of the driveway and the returns of the intersection as measured along the curb line of the street.
- f. Minimum distance between end of the driveway return and side lot line in all districts except R-1 and R-2: 10 feet.
- g. A permit must be obtained for curb cuts pursuant to Section 1205 of this Code.

850.09 Loading Facilities.

Subd. 1 Definition. A loading facility means and includes the dock to or from which the transport vehicle is being loaded or unloaded, the berth for the vehicle while it is being loaded or unloaded and the areas needed to maneuver the vehicle into or out of the berth.

Subd. 2 Location. Off-street loading facilities shall be easily accessible from streets with a minimum of interference with other vehicle and pedestrian traffic. No loading berths shall be located on the side of a building which faces a residential district.

Subd. 3 Setbacks. No loading facility shall be located within the required front street or side street setback for the principal building or within ten feet of an interior side lot line or a rear lot line.

Subd. 4 Design.

A. Size

1. Large Berth:	Length	55 feet
	Width	14 feet
	Height	15 feet
2. Small Berth:	Length	25 feet
	Width	12 feet
	Height	15 feet

B. Docks. All docks shall be located within the perimeter of the principal or accessory building and shall be completely enclosed except for the opening needed for access to a vehicle during the time it is standing in the berth.

C. Construction. All loading berths shall comply with the standards for the construction of parking areas as specified in this Section.

Subd. 5 **Minimum Number of Loading Berths Required.**

A. Planned Industrial District (Except Office Buildings). One large berth per 50,000 square feet of gross floor area or major fraction.

B. All Office Buildings, Mixed Development District (Office Space Only) and Regional Medical District.

<u>Gross Floor Area (GFA)</u>	<u>Number of Berths</u>
0 – 20,000 sq. ft	0 berths
20,001 – 100,000 sq. ft.	1 small berth
Over 100,000 sq. ft.	1 small berth and 1 large berth plus 1 additional berth for each 100,000 square feet GFA or major fraction thereof, over the original 100,000 square feet GFA

C. Planned Commercial District (Except Office Buildings).

<u>Gross Floor Area (GFA)</u>	<u>Number of Berths</u>
0 – 5,000 sq. ft	0 berths
5,001 – 20,000 sq. ft.	1 small berth
20,001 – 100,000 sq. ft.	1 small berth and 1 large berth
Over 100,000 sq. ft.	1 small berth 50,000 square feet GFA or major fraction thereof, over the original 100,000 square feet GFA

850.10 Landscaping and Screening.Subd. 1 **Landscaping.**

A. Application of Requirements. All properties shall comply with the requirements of

this Section except for single dwelling unit or double dwelling unit lots, public parks, playgrounds and athletic facilities, and public and private golf courses, except that club houses, parking areas and other structures accessory to the golf courses shall comply.

B. Landscape Plan Requirements. Landscape plans shall be prepared by a landscape architect or other qualified individual acceptable to the Planner. Landscape plans shall be drawn to a scale of not smaller than one inch equals 30 feet and shall include the following information:

1. Boundary lines of the property with accurate dimensions.
2. Locations of existing and proposed buildings, parking lots, roads and other improvements.
3. Proposed grading plan with two-foot contour intervals.
4. Location, approximate size and common name of existing trees and shrubs.
5. Planting schedule containing (i) symbols; (ii) quantities; (iii) common names and botanical names; (iv) size of plant materials, (v) root condition, and (vi) special planting instructions.
6. Planting details illustrating proposed locations of all new plant material.
7. Locations and details of other landscape features including berms, fences and planter boxes.
8. Details of restoration of disturbed areas including areas to be sodded or seeded.
9. Location and details of irrigation systems.
10. Details and cross sections of all required screening.

C. Minimum Requirements. All open areas of a lot which are not used and improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials.

1. Minimum Number of Overstory Trees. The number of overstory trees on the lot or tract shall be not less than the perimeter of the lot or tract as measured in feet divided by 40.
2. Understory Trees and Shrubs. In addition to the required number of overstory trees, a full complement of understory trees and shrubs shall be provided to complete a quality landscape treatment of the site.
3. Minimum Size and Root Condition of Required Overstory Trees.

Minimum Amount of Required Trees

<u>Tree Type</u>	<u>Deciduous</u>	<u>Coniferous</u>	<u>Building Height - Front</u>	
			<u>Less than 24'</u>	<u>24' or Greater</u>
Ornamental	2" or less	5' or less	5%	5%
Complimentary	2½ " or greater	6' or greater	60%	25%

Accent	3½ “ or greater	8 ‘ or greater	20%	25%
Primary	4½” or greater	10’ or greater	10%	20%
Full	5½” or greater	12’ or greater	5%	20%

Calculations to determine minimum number of trees are always rounded up. Tree size, as to deciduous, is the diameter of the tree measured 6 inches above the ground. Tree size, as to coniferous, is measured in height.

All new overstory trees shall be balled and burlapped or moved from the growing site by tree spade.

4. Species.

- a. all required overstory trees shall be composed of species which are classified as overstory trees by the American Nurseryman’s Association. Trees which are considered as half trees, shrubs, understory trees or ornamental trees shall not be included in the count of required overstory trees;
- b. not more than 50 percent of the required number of overstory trees shall be composed of one species;
- c. no required overstory trees shall include (i) all species of the genus *Ulmus* (elm); (ii) box elder; (iii) all species of the genus *Populus* (poplar), or (iv) ginkgo - female only; and
- d. all plant materials shall be indigenous to the hardiness zone of the area in which the City is located.

5. Credit for Existing Trees. The total number of required new overstory trees may be offset by the retention of existing overstory trees on the lot provided that the trees satisfy the requirements of this Subdivision 850.10 as to size and species. The Planner shall determine the amount of the credit for existing trees based upon their location and distribution on the lot.

6. Ground Cover. All unimproved portions of the lot or tract shall be sodded. Provided, however:

- a. areas reserved for future approved building expansions may be seeded;
- b. undisturbed areas containing existing viable natural vegetation which can be maintained free of weeds may be left undisturbed; and
- c. slopes steeper than 3:1 may be seeded.

D. Landscaping Inspection Fee. A landscaping inspection fee in the amount set out in Section 185 of this Code shall be paid to the City at the time a building or other permit is issued for work to be done on the same property as the landscaping work, and as a condition to the issuance of the permit.

Subd. 2 **Screening.**

A. Screening Required. The following uses shall be screened in accordance with the requirements of this Subdivision 850.10:

1. Non-residential principal buildings or structures, and any building or structure accessory thereto, shall be screened from lots in the R-1 District which are used for single dwelling unit buildings and which are located within 200 feet of the non-residential use. The distance shall be the shortest distance between the non-residential building or structure to be screened and the nearest lot line of the R-1 District lot, but shall not extend across a street;
2. Principal buildings or structures, or any building or structure accessory thereto, located in the Planned Industrial District or Planned Commercial District shall be screened from lots used for any residential purpose which are located within 200 feet. The distance shall be the shortest distance between the PID or PCD building or structure to be screened and the nearest lot line of the residential lot, but shall not extend across a street;
3. Off-street parking facilities containing six or more spaces and all loading facilities shall be screened from streets located within 50 feet, and from lots which are used for any residential purpose which are located within 50 feet. Said distance shall be the shortest distance between the parking facility or loading facility and the nearest part of the street or the nearest lot line of the residential lot;
4. Trash storage facilities including recycling storage facilities shall be screened from all lot lines and public road rights-of-way; and
5. All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be screened from all lot lines and streets.

B. Responsibility. The owner of the principal or accessory building or structure to be screened shall install and maintain all screening required without cost to the City.

C. Materials. Required screening may be achieved with fences, walls, earth berms, hedges and other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not be steeper than 3:1. All materials, including landscaping, shall have a minimum opacity of 90 percent year round.

D. Location. All required screening shall be located on the lot occupied by the use, building, facility or structure to be screened. No screening shall be located upon any public road right-of-way, or within 20 feet of the traveled portion of a street.

E. Height. The minimum height for screening required by this Section is as follows:

1. Screening required by subparagraphs 1 and 2 of paragraph A. of Subd. 2 of Subsection 850.10: ten feet above property line;
2. Screening required by subparagraph 3 of paragraph A. of Subd. 2 of Subsection 850.10: four feet above level of parking lot and ten feet above level of loading facility; and

3. Screening required by subparagraphs 4 and 5 of paragraph A. of Subd. 2 of Subsection 850.10: high enough to completely screen from property lines, but not less than five feet or greater than ten feet in height.

Subd. 3 **Maintenance.**

A. Responsibility. The owner of the lot upon which the required landscaping or screening is located shall maintain all materials in a sightly and healthy growing condition without cost to the City.

B. Security. Security shall be filed with the Planner in accordance with Section 405 of this Code to guarantee the installation and vigorous growing condition of all landscape elements and required screening. The security shall remain in effect for two full growing seasons. Lots provided with an irrigation system covering 100 percent of the area improved with landscaping need provide security for only one growing season. The growing season guarantee period for plant material installed after June 1 shall begin the following year.

850.11 Single Dwelling Unit District (R-1).

Subd. 1 Principal Uses.

- A. Buildings containing not more than one dwelling unit.
- B. Publicly owned parks, playgrounds and athletic facilities.
- C. Publicly and privately owned golf courses, but not including driving ranges or miniature golf courses as a principal use.

Subd. 2 Conditional Uses.

- A. Religious institutions, including churches, synagogues, chapels and temples.
- B. Elementary schools, junior high schools and senior high schools having a regular course of study accredited by the Minnesota Department of Education, preschools and community centers.
- C. Publicly owned and operated civic and cultural institutions including, but not limited to, administrative offices, libraries, public safety buildings and places of assembly.
- D. Golf course club houses.
- E. Parking facilities and other uses which are accessory to conditional uses including, but not limited to, seminaries, private schools, monasteries and nunneries, but excluding preschools, nurseries and day care permitted by paragraph C. of Subd. 3 of this Subsection 850.11.
- F. Temporary Conditional Uses allowed pursuant to Subd. 5 of Subsection 850.04.
- G. Day care facilities, pre-schools and nursery schools.
- H. Accessory building(s) totaling 1,000 square feet or more located on property on which a conditionally permitted use exists subject to the following conditions:
 - 1. The accessory building must be architecturally compatible with the principal building if the accessory building is located within 1,500 feet from the principal building.
 - 2. The accessory building height shall be limited to 20 feet.

3. An accessory building 1,000 square feet or larger must be set back a minimum of 95 feet from all property lines. Accessory buildings less than 1,000 square feet must be set back a minimum of 50 feet from all property lines.

4. Landscaping shall be required to buffer views when the structure is visible from adjoining properties, per Section 850.10 Subd. 2. A.

I. Additions to or replacement of single dwelling unit buildings with a first floor elevation of more than one (1) foot above the existing first floor elevation of the existing dwelling unit building. Such additions to or replacements of single dwelling unit buildings must meet one or more of the first three (3) conditions listed below, and always meet condition four (4).

1. The first floor elevation may be increased to the extent necessary to elevate the lowest level of the dwelling to an elevation of two (2) feet above the 100-year flood elevation, as established by the Federal Emergency Management Agency (FEMA), or the City's Comprehensive Water Resource Management Plan; or

2. The first floor elevation may be increased to the extent necessary to reasonably protect the dwelling from ground water intrusion. Existing and potential ground water elevations shall be determined in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a professional civil engineer licensed under Minnesota Statutes Chapter 326 or a hydrologist certified by the American Institute of Hydrology. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval; or

3. The first floor elevation may be increased to the extent necessary to allow the new building to meet State Building Code, City of Edina Code, or other statutory requirements; and

4. An increase in first floor elevation will only be permitted if the new structure or addition fits the character of the neighborhood in height, mass and scale.

Subd. 3 Accessory Uses.

A. The following accessory uses are permitted on the same lot as a single dwelling unit building:

1. Accessory garages.

2. Greenhouses, garden houses, decks, patios and gazebos.

3. Tool houses and sheds for the storage of domestic supplies.

4. Private swimming pools, tennis courts and other recreational facilities for use only by residents of the principal use and their guests.

5. Improvements customarily incidental to single dwelling unit buildings including, but not limited to, driveways, sidewalks, flagpoles and clotheslines.

6. Customary home occupations.

7. Day care facilities, licensed by the State, located within the single dwelling unit building.

8. Temporary retail sales of evergreen products from Conditional Use properties pursuant to a permit issued in accordance with this Subsection 850.11

B. Uses and facilities accessory to and on the same lot as a golf course, including maintenance buildings, golf driving ranges, swimming pools, tennis courts and other related recreational facilities. Accessory building(s) totaling 1,000 square feet or more require a conditional use permit.

C. Preschools, nurseries and day care within elementary, junior high and senior high schools and religious institutions.

D. Rooms for residential occupancy by persons employed by religious institutions or golf courses.

Subd. 4 Interim Uses of Elementary, Junior and Senior High School Buildings Owned by Independent School District No. 273.

A. Purpose and Intent. The Council recognizes that several public elementary, junior high and senior high school buildings owned by Independent School District No. 273 (the "School District") have been, or will be, wholly or partly closed for public education purposes due to the decreasing school age population of the School District. It further recognizes that many such buildings will be retained in School District ownership in order that they may be reused for public education purposes in the future if the School District's school-age population increases. Therefore, the Council has determined that the school buildings should be allowed to be temporarily occupied by appropriate uses during this interim period in order to preserve a substantial public investment, to prevent the deterioration of such public properties thereby adversely impacting surrounding private properties, to prevent an undue financial burden upon the School District, and to promote the general health, safety and welfare of the residents of the City. However, it is not the purpose and intent of this Section to allow the permanent reuse of such public school buildings for the interim uses permitted or allowed by this Section.

B. Permitted Interim Uses.

1. Schools for teaching music, dance, arts or business vocations which do not require a conditional use permit pursuant to paragraph D. of Subd. 4 of this Subsection 850.11; and

2. Administrative offices and meeting rooms (excluding lodge halls) for private non-profit organizations, and counseling services, which, together with the other such offices and meeting rooms in the same public school building do not occupy, in the aggregate, in excess of the minimum percentage of gross floor area set out in subparagraph 1.a. of paragraph D. of Subd. 4. of this Subsection 850.11, and if such offices and meeting rooms do not require a conditional use permit pursuant to subparagraph 1.b. of paragraph D. of Subd. 4. of this Subsection.

C. Termination of All Interim Uses. If all or any part of any public school building, or the land upon which it is located, is disposed of or transferred to private ownership by deed, contract for deed, lease for more than three years or by other means, all interim

uses shall cease and the building and land shall then be used for only principal uses, and accessory uses permitted in the zoning district in which the land is situated, or allowed conditional uses pursuant to the grant of a conditional use permit.

D. Conditional Interim Uses.

1. Only the following interim uses are allowed subject to the grant of a conditional use permit:

a. administrative offices and meeting rooms for private non-profit organizations, and counseling services, which, together with the other such offices and meeting rooms in the same public school building will, in the aggregate, occupy 35 percent or more of the gross floor area of the building; and

b. administrative offices and meeting rooms for private non-profit organizations, and counseling services and schools for teaching music, arts, dance or business vocations which are open for operations between 6:00 P.M. and 7:00 A.M. on three or more days per week.

2. No conditional use permit shall be issued unless the Council finds that the hours of operation of the proposed use(s) will be complementary to other uses in the building or on the property and will not adversely impact the residential character of surrounding properties.

Subd. 5 Requirements for Lot Areas and Dimensions.

A. Minimum Lot Area.

- | | |
|--|--|
| 1. Single Dwelling Unit | 9,000 square feet provided however, if the lot is in a neighborhood as defined in Section 810 of this Code, which has lots with a median lot area greater than 9,000 square feet, then the minimum lot area shall be not less than the median lot area of the lots in such neighborhood. |
| 2. Elementary School | 5 acres |
| 3. Junior high schools, senior high schools, seminaries, monasteries, nunneries, and community centers | 10 acres, plus 1 acre for each 150 pupils of planned maximum enrollment. |
| 4. Religious institutions | 3 acres. |
| 5. Day care facilities, pre-schools and nursery schools | 2 acres |

B. Minimum Lot Width.

Single dwelling unit building	75 feet, provided however, if the lot is in a neighborhood as defined in Section 810 of this Code, which has lot with a median lot width greater than 75 feet, then the minimum lot width shall be not less than the median lot width of lots in such neighborhood
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C. Minimum Lot Depth.

Single dwelling unit building	120 feet, provided, however if the lot is in a neighborhood as defined in Section 810 of this Code, which has lots with a median lot depth greater than 120 feet, then the minimum lot depth shall be not less than the median lot depth of lots in such neighborhood.
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D. Minimum Lot Width to Perimeter Ratio. Each lot shall have a lot width to perimeter ratio of not less than 0.1.

Subd. 6 Requirements for Building Coverage, Setbacks and Height.

A. Building Coverage.

1. Lots 9,000 Square Feet or Greater in Area. Building coverage shall be not more than 25 percent for all buildings and structures. On lots with an existing conditional use, if the combined total area occupied by all accessory buildings and structures, excluding attached garages, is 1,000 square feet or greater, a conditional use permit is required.
2. Lots Less Than 9,000 Square Feet in Area. Building coverage shall be not more than 30 percent for all buildings and structures, provided, however, that the area occupied by all buildings and structures shall not exceed 2,250 square feet.
3. The combined total area occupied by all accessory buildings and structures, excluding attached garages, shall not exceed 1,000 square feet for lots used for single dwelling unit buildings.

B. Minimum Setbacks (subject to the requirements of paragraph A. of Subd. 7 of this Subsection 850.11).

	Front Street	Side Street	Interior Side Yard	Rear Yard
1. Single dwelling unit buildings on Lots 75 feet or more in width.	30'**	15'	10'	25'

2. Single dwelling unit buildings on lots more than 60 feet in width, but less than 75 feet in width.	30'**	15'	The required interior yard setback of 5 feet shall increase by 1/3 foot (4 inches) for each foot that the lot width exceeds 60 feet.'	25'
3. Single dwelling unit buildings on 60 feet or less in width.	30'**	15'	5'	25'
4. Buildings and structures accessory to single dwelling unit buildings:				
a. detached garages, tool sheds, greenhouses and garden houses entirely within the rear yard, including the eaves.	--	15'	3'	3'
b. attached garages, tool sheds, greenhouses and garden houses.	30'	15'	5'	25'
c. detached garages, tool sheds, greenhouses and garden houses not entirely within the rear yard.	--	15'	5'	5'
d. unenclosed decks and patios.	30'	15'	5'	5'
e. swimming pools, including appurtenant equipment and required decking.	30'	15'	10'	10'
f. tennis courts, basketball courts, sports courts, hockey and skating rinks, and other similar recreational accessory uses including appurtenant fencing and lighting.	30'	15'	5'	5'
g. all other accessory buildings and structures.	30'	15'	5'	5'

5. Other Uses:

a. All conditional use buildings or structures including accessory buildings less than 1,000 square feet; except parking lots, day care facilities, pre-schools and nursery schools	50'	50'	50'	50'
b. All conditional use accessory buildings 1,000 square feet or larger.	95'	95'	95'	95'
c. Driving ranges, tennis courts, maintenance buildings and swimming pools accessory to a golf course.	50'	50'	50'	50'
d. Daycare facilities, pre-schools and nursery schools.	30'	35'	35'	35'

** See Subd. 7.A.1. below for required setback when more than 25 percent of the lots on one side of a street between street intersections, on one street of a street that ends in a cul-de-sac, or on one side of a dead end street are occupied by dwelling units

C. Height

1. Single dwelling units buildings and structures accessory thereto. 2 ½ stories or 30 feet whichever is less
2. Buildings and structures accessory to single dwelling unit buildings, but not attached thereto. 1 ½ stories or 18 feet whichever is less
3. All other buildings and structures 3 stories or 40 feet whichever is less
4. The maximum height to the highest point on a roof of a single or double dwelling unit shall be 35 feet. The maximum height may be increased by one inch for each foot that the lot exceeds 75 feet in width. In no event shall the maximum height exceed 40 feet.

Subd. 7**Special Requirements.** In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply.

- A. Special Setback Requirements for Single Dwelling Unit Lots.

1. Established Front Street Setback. When more than 25 percent of the lots on one side of a street between street intersections, on one side of a street that ends in a cul-de-sac, or on one side of a dead end street, are occupied by dwelling units, the front street setback for any lot shall be determined as follows:
 - a. If there is an existing dwelling unit on an abutting lot on only one side of the lot, the front street setback requirement shall be the same as the front street setback of the dwelling unit on the abutting lot.
 - b. If there are existing dwelling units on abutting lots on both sides of the lot, the front street setback shall be the average of the front street setbacks of the dwelling units on the two abutting lots.
 - c. In all other cases, the front street setback shall be the average front street setback of all dwelling units on the same side of that street.
2. Side Street Setback. The required side street setback shall be increased to that required for a front street setback where there is an adjoining interior lot facing on the same street. The required side street setback for a garage shall be increased to 20 feet if the garage opening faces the side street.
3. Interior Side Yard Setback. The required interior side yard setback shall be increased by 6 inches for each foot the building height exceeds 15 feet. For purposes of this subparagraph, building height shall be the height of that side of the building adjoining the side lot line and shall be measured from the average proposed elevation of the ground along and on the side of the building adjoining the side lot line to the top of the cornice of a flat roof, to the deck line of a Mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, to the average distance of the highest gable on a pitched roof, or to the top of a cornice of a hip roof.
4. Rear Yard Setback - Interior Lots. If the rear lot line is less than 30 feet in length or if the lot forms a point at the rear and there is no rear lot line, then for setback purposes the rear lot line shall be deemed to be a straight line segment within the lot not less than 30 feet in length, perpendicular to a line drawn from the midpoint of the front lot line to the junction of the interior lot lines, and at the maximum distance from the front lot line.
5. Rear Yard Setback - Corner Lots Required to Maintain Two Front Street Setbacks. The owner of a corner lot required to maintain two front street setbacks may designate any interior lot line measuring 30 feet or more in length as the rear lot line for setback purposes. In the alternative, the owner of a corner lot required to maintain two front street setbacks may deem the rear lot line to be a straight line segment within the lot not less than 30 feet in length, perpendicular to a line drawn from the junction of the street frontages to the junction of the interior lot lines, the line segment being the maximum distance from the junction of the street frontages.
6. Through Lots. For a through lot, the required setback for all buildings and structures from the street upon which the single dwelling unit building does not front shall be not less than 25 feet.

7. Accessory Buildings and Structures Used for Dwelling Purposes. Subject to the requirements of paragraph B. of Subd. 7 of this Subsection 850.11, if any accessory building or structure (including, without limitation, garages), or if any addition to or expansion of (including, without limitation, an additional story on) an accessory building or structure (including, without limitation, garages), is used or intended for use, in whole or in part, for residential occupancy, then such accessory building or structure or such addition or expansion, shall comply with all of the minimum setback requirements for a single dwelling unit building.
- B. One Dwelling Unit Per Single Dwelling Unit Lot. No more than one dwelling unit shall be erected, placed or used on any lot unless the lot is subdivided into two or more lots pursuant to Section 810 of this Code.
- C. Decks and Patios. Notwithstanding the provisions of Subsection 850.07, the first 150 square feet of an unenclosed deck or patio shall not be included when computing building coverage.
- D. Basements. All single dwelling unit buildings shall be constructed with a basement having a gross floor area equal to at least 50 percent of the gross floor area of the story next above. The floor area of accessory uses shall not be included for purposes of this paragraph.
- E. Minimum Building Width. No more than 30 percent of the length, in the aggregate, of a single dwelling unit building shall measure less than 18 feet in width as measured from the exterior of the exterior walls.
- F. Parking Ramps Prohibited. No parking ramp shall be constructed in the R-1 District.
- G. Temporary retail sales of evergreen products from Conditional Use properties
 8. The Manager may grant a permit for temporary retail sales of evergreen products, if:
 - a. the owner of the property or other non-profit group approved by the owner conducts the sale.
 - b. the duration of the sale does not exceed 45 consecutive days and does not start before November 15 in any year.
 - c. the sale area is located in a suitable off-street location that does not interfere with traffic circulation on the site or obstruct parking spaces needed by the principal use on the site.
 - d. the sale area is not located within 200 feet of a property zoned and used for residential occupancy.
 - e. the hours of operation do not extend beyond 10:00 p.m.
 - f. signage is limited to one sign per street frontage with an aggregate sign area not exceeding 100 square feet.
- H. Additions to or replacement of, single dwelling unit buildings and buildings containing two dwelling units. For additions, alterations and changes to, or rebuilds of existing single dwelling unit buildings and buildings containing two dwellings, the first floor elevation may not be more than one foot above the existing first floor elevation. If a split level dwelling is

torn down and a new home is built, the new first floor or entry level elevation may not be more than one foot above the front entry elevation of the home that was torn down. Subject to Section 850.11 Subd. 2. I. the first floor elevation may be increased more than one (1) foot. The provisions of this paragraph shall apply to all single dwelling unit buildings and buildings containing two dwelling units including units in the flood plain overlay district. Any deviation from the requirements of this paragraph shall require a variance.

850.12 Double Dwelling Unit District (R-2).

Subd. 1 **Principal Uses.** Buildings containing two dwelling units.

Subd. 2 **Accessory uses.**

- A. Accessory garages.
- B. Greenhouses, garden houses, decks, patios and gazebos.
- C. Tool houses and sheds for storage of domestic supplies.
- D. Private swimming pools, tennis courts and other recreational facilities for use only by residents of the principal use and their guests.
- E. Improvements customarily incidental to single dwelling unit buildings including, but not limited to, driveways, sidewalks, flagpoles and clotheslines.
- F. Customary home occupations.

Subd. 3 **Conditional Uses**

Additions to or replacement of single dwelling unit buildings and buildings containing two (2) dwelling units with a first floor elevation of more than one (1) foot above the existing first floor elevation of the existing dwelling unit building. Such additions to or replacements of single or two dwelling unit buildings must meet one or more of the first three (3) conditions listed below, and always meet condition four (4).

- 1. The first floor elevation may be increased to the extent necessary to elevate the lowest level of the dwelling to an elevation of two (2) feet above the 100-year flood elevation, as established by the Federal Emergency Management Agency (FEMA), or the City's Comprehensive Water Resource Management Plan; or
- 2. The first floor elevation may be increased to the extent necessary to reasonably protect the dwelling from ground water intrusion. Existing and potential ground water elevations shall be determined in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a professional civil engineer licensed under Minnesota Statutes Chapter 326 or a hydrologist certified by the American Institute of Hydrology. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval; or
- 3. The first floor elevation may be increased to the extent necessary to allow the new building to meet State Building Code, City of Edina Code, or other statutory requirements; and
- 4. An increase in first floor elevation will only be permitted if the new structure or addition fits the character of the neighborhood in height, mass and scale.

Subd. 4 **Requirements for Lot Areas and Dimensions.**

- A. Minimum Lot Area (per double dwelling unit building 15,000 sq. ft.
- B. Minimum Lot Width 90 ft.

Subd. 5 Requirements for Building Coverage, Setbacks and Height.

- A. Maximum Building Coverage 25%
- B. Setbacks (subject to the provisions of paragraph D. of Subd. 5 of this Subsection 850.12

1. Principal Use Buildings:

- Front street setback 30 ft.
- Side street setback 15 ft.
- Interior side yard setback 10 ft.
- Rear yard setback 35 ft.

2. Accessory Buildings and Structures. Setbacks for accessory buildings and structures shall be the same as those required by this Section for building and structures accessory to single dwelling unit buildings in the R-1 District.

- C. Height: 2½ stories or 30 feet, whichever is less.

Subd. 6 Special Requirements. In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply.

A. Application of Requirements. Requirements for lot area and dimensions, building coverage, setbacks and height shall be applied to the entire double dwelling unit building and the entire lot, and shall ignore any subdivision of building and lot which has been or may be made in order to convey each dwelling unit separately.

B. Sewer and Water Connections. Each dwelling unit must be separately and independently connected to public sanitary sewer and water mains or shall have been granted a waiver thereof in accordance with Section 445 of this Code

C. Subdivided R-2 Lots. A double dwelling unit building and lot may be subdivided pursuant to Section 810 of this Code along the common party walls between the dwelling units, provided that:

- 1. A building permit has been issued and the building foundation is in place;
- 2. Each parcel resulting from the subdivision must have frontage on a public street of not less than 25 feet;
- 3. The parcels resulting from the subdivision shall each comprise approximately the same number of square feet, and no an individual parcel shall be less than 5,000 square feet; and
- 4. A rear yard not less than 25 feet in depth must be provided for each dwelling unit.

If the above conditions cannot be met, the lot may be subdivided by means of a townhouse plat.

D. Special Setback Requirements for Double Dwelling Unit Buildings. Double dwelling unit buildings shall comply with the special requirements for single dwelling unit

building setbacks, as provided in paragraph A. of Subd. 7 of Subsection 850.11.

E. Decks and Patios. Notwithstanding the provisions of Subsection 850.07, the first 200 square feet of an unenclosed deck or patio shall not be included when computing building coverage.

F. Basements. All double dwelling unit buildings shall be constructed with a basement having a gross floor area equal to at least 50 percent of the gross floor area of the story next above. The floor area of accessory uses shall not be included for the purposes of this paragraph.

G. Minimum Building Width. No more than 30 percent of the length, in the aggregate, of a double dwelling unit building shall measure less than eighteen feet in width, as measured from the exterior of the exterior walls.

850.13 Planned Residence District (PRD, PSR).

Subd. 1 **Subdistricts.** The Planned Resident District shall be divided into the following subdistricts:

Planned Resident District – 1	(PRD-1)
Planned Resident District – 2	(PRD-2)
Planned Resident District – 3	(PRD-3)
Planned Resident District – 4	(PRD-4)
Planned Resident District – 5	(PRD-5)
Planned Senior Residence – 3	(PSR-3)
Planned Senior Residence – 4	(PSR-4)

Subd. 2 Principal Uses.

A. PRD-1. Single dwelling unit buildings, double dwelling unit buildings and residential townhouses.

B. PRD-2. Residential buildings containing six or fewer dwelling units.

C. PRD-3 and PRD-4. All residential buildings. Also day care facilities licensed by the State.

D. PRD-5. Rest homes, convalescent homes and nursing homes.

E. PSR-3 and PSR-4. Buildings containing four or more dwelling units, all but one of which are senior citizen dwelling units.

Subd. 3 Accessory Uses.

A. PRD-1. All accessory uses allowed in the R-1 District.

B. All Other Subdistricts. All accessory uses allowed in the R-2 District.

C. PRD-4, PRD-5 and PSR-4. Shops, restaurants and other services primarily intended for the use and convenience of residents of the principal use, provided that such

accessory uses are accessible only from the interior of the principal building, are located only on the ground floor of the principal building, and have no signs or display visible from the outside of the principal building. Not more than ten percent of the gross floor area of a principal building shall be devoted to these accessory uses.

Subd. 4 Density.

A. Required Lot Area. The area of the tract shall not be less than the sum of the required lot area for each dwelling unit adjusted by the allowances permitted or imposed by this paragraph:

	Lot Area Per Dwelling Unit	Maximum Allowance Per Dwelling Unit
PRD – 1	10,500 Sq. ft.	0 sq. ft.
PRD – 3	7,300 Sq. ft.	0 sq. ft.
PRD – 3	4,400 sq. ft.	1,500 sq. ft.
PRD – 4	2,900 sq. ft.	1,500 sq. ft.
PRD – 5	*	*
PSR – 3	3,500 sq. ft.	1,500 sq. ft.
PSR – 4	2,500 sq. ft.	1,500 sq. ft.

*The principal building in subdistrict PRD-5 shall not exceed an FAR of 1.2.

B. Schedule of Allowances.

1. PRD-3

- a. subtract 500 square feet for each parking space within or under the principal building or otherwise completely underground. (No more than 1.5 spaces per dwelling unit shall be counted).
- b. subtract 500 square feet for each dwelling unit if all principal buildings conform to all specifications of Type I or II construction as defined in the State Building Code as adopted by Section 410 of this Code.
- c. subtract 250 square feet for each dwelling unit if at least a 500 foot spacing is maintained between each principal and accessory building and the nearest lot line of a lot in the R-1 District used for residential purposes.
- d. add 500 square feet for each bedroom in excess of two in any one dwelling unit.
- e. subtract 250 square feet for each dwelling unit if the tract is within 2,000 feet of an accessible freeway interchange (nearest lot line to center of interchange).

2. PRD-4

- a. all allowances permitted by paragraph B.1 of this Subd. 4 for PRD-3.

b. subtract 250 square feet for each dwelling unit if the tract is three acres or more in area.

c. subtract 250 square feet for each dwelling unit if total building coverage is less than ten percent.

3. PSR-3 and PSR-4

a. all allowances permitted by paragraph B.2 of this Subd. 4 for PRD-4.

b. subtract 1,000 square feet for each senior citizen dwelling unit.

Subd. 5 Requirements for Building Coverage, Setbacks, Height.

A. Maximum Building Coverage and FAR.

	Maximum Building Coverage	FAR
PRD – 1	25%	--
PRD – 2	25%	--
PRD – 3	30%	--
PRD – 4	30%	--
PRD – 5	35%	1.2
PSR – 3	30%	--
PSR – 4	35%	1.2

B. Setbacks.

1. Setbacks shall be measured from the boundary of the tract. The required setbacks shall be increased to equal the building height for those buildings whose height exceeds the minimum setbacks required.

a. minimum setbacks are as follows:

Interior			
Front	Side	Side	Rear
Street	Street	Yard	Yard

PRD – 1	30'	30'	20'	25'
PRD – 2	30'	30'	20'	35'
PRD – 3	35'	35'	20'	35'
PRD – 4, 5	35'	35'	35'	35'
PSR – 3,4	35'	35'	20'	35'
Accessory Buildings	Same as principal building		10'	10'

C. Maximum Building Height.

PRD – 1, 2	2½ stories or 30 feet, whichever is less
PRD – 3	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
PRD – 4, 5	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
PSR – 3	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
PSR – 4	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.

Subd. 6 Usable Lot Area. Usable lot area not less than the amount specified below shall be provided on the tract. This space must be easily accessible by residents of the principal building. The front yard and side yard established by the required front street or side street setback and areas occupied by driveways, parking areas and buildings shall not be included as usable lot area. Areas within the tract and dedicated by the tract owner to the general public shall be included in usable lot area computations.

	<u>Per Dwelling Unit</u>
PRD – 1	2,000 sq. ft.
PRD – 2	1,500 sq. ft.
PRD – 3, 4	400 sq. ft.
PSR – 3	200 sq. ft.
PSR – 4	100 sq. ft.

Subd. 7 Special Requirements. In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply:

- A. Minimum Tract Area - PRD-1. 10 acres

B. Minimum Floor Area per Dwelling Unit.

	<u>PSR</u>	<u>PRD (except PRD-5)</u>
Efficiency	--	500 sq. ft.
One Bedroom	500 minimum sq. ft. 700 maximum sq. ft.	750 sq. ft.
Two Bedroom	750 minimum sq. ft. 850 maximum sq. ft.	950 sq. ft.
Additional Bedrooms	--	150 sq. ft.

For purposes hereof, floor area shall be the area within, and measured from, the inside of exterior walls and from the center of interior walls bounding the dwelling unit, but shall not include furnace rooms, utility rooms, storage areas not within the dwelling unit, garages or any common areas which are used by residents of two or more dwelling units, including stairways, entries, foyers, balconies and porches.

C. Efficiency Dwelling Units. Efficiency dwelling units shall be permitted only in subdistricts PRD-3 PRD-4, PSR-3 and PSR-4. Not more than ten percent of the dwelling units per building shall be efficiency dwelling units, in the PRD-3 and PRD-4 Districts.

D. Maximum Number of Townhouses Per Building. Not more than eight townhouses per building shall be allowed.

E. Sewer and Water Connections for Townhouses. Each townhouse shall be separately and independently connected to public sanitary sewer mains and water mains or shall have been granted a waiver thereof in accordance with Section 445 of this Code.

F. Accessory Buildings. The exterior of accessory buildings shall be constructed of the same material as the principal building.

G. Community Facilities in PSR-3 and PSR-4. Principal buildings in subdistricts PSR-3 and PSR-4 shall provide recreational, service and meeting facilities for the use and enjoyment of residents and guests. Such facilities shall comprise not less than 1,250 square feet, or 15 square feet of floor area per senior citizen dwelling unit, measured as provided for in paragraph B. of Subd. 7 of this Subsection 850.13, whichever is greater. Such facilities shall be indoor space and shall be conditioned for year round occupancy. Outdoor areas, laundry facilities, storage areas, mechanical rooms, hallways, foyers, offices or circulation space shall not be included to satisfy this requirement.

H. Proximity to R-1 District (PRD-4, PRD-5, and PSR-4). The following minimum distance shall be provided between the closest point of the principal building in the PRD-4, PRD-5 and PSR-4 subdistricts and the nearest lot line of an R-1 District used for residential purposes. This requirement shall only apply to principal buildings four stories or more in height. The minimum distance to an R-1 District need not exceed 680 feet for buildings more than 100 feet in height.

$$\text{Minimum Distance in Feet} = 10(h-40) + 80$$

h = building height

850.14 Mixed Development District (MDD).

Subd. 1 **Subdistricts.** The Mixed Development District shall be divided into the following subdistricts:

Mixed Development District - 3	(MDD-3)
Mixed Development District - 4	(MDD-4)
Mixed Development District - 5	(MDD-5)
Mixed Development District - 6	(MDD-6)

Subd. 2 **Principal Uses.**

A. MDD-3, MDD-4, and MDD-5:

1. Buildings containing not fewer than ten dwelling units or senior citizen dwelling units.
2. Publicly-owned or operated civic or cultural institutions.
3. Publicly-owned park and recreational facilities.
4. Offices, including business and professional offices, medical and dental offices, post offices, travel agencies and travel bureaus.
5. Financial institutions excluding pawn shops.
6. Publicly-owned parking facilities.
7. Day care.
8. Suites Hotels.

B. MDD-6:

1. All principal uses in the MDD-3, MDD-4, and MDD-5 subdistricts.
2. All principal uses in the PCD-1 and PCD-2 subdistricts, except:
 - a. animal hospitals and kennels.
 - b. automotive accessory shops.
 - c. clubs and lodge halls.
 - d. exterminating offices.
 - e. undertaking and funeral home establishments.
3. Health and athletic clubs.
4. Department stores or shopping centers exceeding 40,000 square feet.

Subd. 3 **Accessory Uses.**

- A. Recreational facilities solely for the use and enjoyment of residents of a residential

principal use and their guests.

B. Customary home occupations.

C. Mass transit passenger waiting and pick-up facilities.

Subd. 4 Conditional Uses.

A. MDD-3, MDD-4, and MDD-5.

1. Privately owned recreational facilities other than those permitted in paragraph A. of Subd. 3 of this Subsection 850.14.

2. Drive-through facilities.

3. All principal uses allowed in the PCD-1 and PCD-2 subdistricts, except:

a. animal hospitals and kennels.

b. automotive accessory stores.

c. clubs and lodge halls.

d. exterminating offices.

e. undertaking and funeral home establishments.

B. MDD-6. Commercial uses in residential buildings.

Subd. 5 Density.

A. Allowed Number of Dwelling Units.

1. Required Lot Area. The area of the tract shall not be less than the sum of the required lot area for each dwelling unit thereon, less the allowances permitted or imposed by this paragraph.

	Required Lot Area Per Dwelling Unit	Maximum Allowance Per Dwelling Unit
MDD-3	4,400 sq. ft.	1,000 sq. feet
MDD-4	3,600 sq. ft.	1,000 sq. feet
MDD-5	3,300 sq. ft.	1,500 sq. feet
MDD-6	3,300 sq. ft.	1,500 sq. feet

2. Schedule of Allowances.

a. subtract 500 feet for each required residential parking space within or under the principal building or otherwise completely underground.

b. add 500 square feet for each bedroom in excess of two in any one dwelling unit.

c. subtract 250 square feet for each dwelling unit if total building coverage is less than 20 percent. (Buildings devoted to public or private park, or an

accessory recreational facility, shall be excluded from building coverage for purposes of this allowance).

d. subtract 400 square feet for each dwelling unit if the Mixed Development District includes a publicly owned park that is developed or programmed to be developed with recreational facilities or other facilities for the use and enjoyment of the general public.

e. subtract 600 square feet for each dwelling unit reserved for sale or rent to persons of low and moderate income, as defined by, and pursuant to an agreement approved by, the Housing and Redevelopment Authority of Edina, Minnesota.

B. Allowed Non-Residential Floor Area. The gross floor area of all non-residential uses, exclusive of publicly owned or operated civic, cultural and recreational facilities, transit facilities and uses accessory to residential principal uses, shall not exceed:

1. MDD-3, MDD-4 and MDD-5: 800 square feet of non--residential gross floor area per dwelling unit shown on the approved Overall Development Plan.
2. MDD-6 subdistrict: 3,650 square feet of non-residential gross floor area per dwelling unit shown on the approved Overall Development Plan for the entire subdistrict.

Subd. 6 Requirements for Building Coverage, Setbacks and Height.

A. Maximum Building Coverage. 30 percent of the tract. Publicly owned buildings or structures shall be excluded from building coverage computations.

B. Maximum Floor Area Ratio. Non-residential uses shall not exceed a FAR of 0.5. Non-residential uses and residential uses in the aggregate shall not exceed an FAR of 1.0. Tract area shall include all area in the approved Overall Development Plan, exclusive of public street rights-of-way. Publicly owned buildings or structures shall be excluded from FAR computations.

C. Setbacks. Setbacks shall be measured from the boundary of the tract or from public street right-of-way.

	Front Street	Side Street	Interior Side Yard	Rear Yard
MDD-3	35'	35'	20'	35'
MDD-4	35'	35'	20'	35'
MDD-5	35'	35'	20'	35'
MDD-6	35'	35'	20'	35'

The minimum building setback shall be increased by ½ foot for each foot the building height exceeds the minimum required setback, provided. If the tract abuts land and used for residential purposed, the required interior setback shall not be less than 35 feet.

D. Maximum Building Height.

MDD-3	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
MDD-4	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
MDD-5	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
MDD-6	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.

Subd. 7 Usable Lot Area. Usable lot area not less than the amount specified below shall be provided on the tract. Publicly owned or operated civic, cultural or recreational facilities located on the tract may be counted as usable lot area. The front yard and side yard established by the required front street or side street setback and areas occupied by driveways, parking areas and garages shall not be counted as usable lot area.

Per Dwelling Unit

MDD-3	400 sq. ft.
MDD-4	400 sq. ft.
MDD-5	200 sq. ft.
MDD-6	200 sq. ft.

Subd. 8 Special Requirements. In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply:

A. **Minimum Tract Area.** The minimum tract area for subdistrict MDD-5 shall be five acres. The minimum tract area for subdistrict MDD-6 shall be 40 acres.

B. **Ownership or Control.** The tract proposed for transfer to the Mixed Development District shall be under common ownership and shall be planned and developed as an integral unit.

C. **Proposed Development Schedule.** The Final Development Plan required by Subsection 850.04 shall include a proposed schedule of construction of the major components of the development as such major components are determined by the Planner. The proposed schedule as approved by the Council shall become part of the Final Development Plan. No more than 50 percent of the permitted gross floor area of non-residential uses on the tract shall be constructed until a building permit has been issued for, and construction begun on, at least 25 percent of the permitted dwelling units.

D. **Conditional Uses.** Conditional uses shall:

1. Be contained within the same building as a principal use, except for drive-through facilities.
2. Provide goods and services beneficial to the needs of the occupants and residents of the principal uses and surrounding properties.
3. Have enclosed pedestrian access to the principal use.

E. **Skyway Setbacks.** In cases where pedestrian connections are made across and above a street, the required setback for such connections may be reduced to zero feet for a

width of 120 feet.

F. Special Requirements for Retail Uses. Retail uses shall comply with the special requirements provided by paragraphs, D, E, F, G, H, I, J, and K of Subd. 11 of Subsection 850.16 of this Code.

850.15 Planned Office District (POD).

Subd. 1 **Subdistricts.** The Planned Office District shall be divided into the following subdistricts:

Planned Office District - 1 (POD-1)

Planned Office District - 2 (POD-2)

Subd. 2 Principal Uses.

- A. Business and professional offices.
- B. Financial institutions including drive-through facilities, but excluding pawn shops.
- C. Post offices.
- D. Clubs, lodge halls and non-profit organizations, excluding those providing food or beverage services in the building or on the lot.
- E. Facilities for athletic, health or weight control purposes, including, but not limited to, handball, racquetball, tennis, reducing salons and aerobic dance studios, provided that no seating or other facilities shall be allowed for spectator usage.
- F. Medical and dental offices and clinics.
- G. Employment agencies.
- H. Travel bureaus.
- I. Day care.
- J. Public or private colleges, universities or schools.

Subd. 3 Conditional Uses.

- A. Funeral Homes and Mortuaries

Subd. 4 Accessory Uses.

- A. Off-street parking facilities.
- B. In buildings having a gross floor area of 40,000 square feet or more, ten percent of the gross floor area may be occupied by retail uses allowed in the PCD-1 District and PCD-2 District, provided that the accessory uses are accessible only from the interior of the principal building and have no signs or displays relative thereto visible from the outside of the principal building.

Subd. 5 Requirements for Building Coverage, Setbacks and Height.

- A. Maximum Building Coverage: 30 percent of the tract.
- B. Maximum Floor Area Ratio: 0.5 of the tract.
- C. Setbacks - shall be measured from the boundary of the tract:

		Interior	
Front	Side	Side	Rear
Street	Street	Yard	Yard
35'*	35'*	20'*	20'*

* or the building height if greater.

D. Maximum Building Height.

POD-1 See Section 850.22, Building Height Overlay District at Appendix A of the City's Official Zoning Map.

POD-2 See Section 850.22, Building Height Overlay District at Appendix A of the City's Official Zoning Map.

Subd. 6Special Requirements. In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply:

A. Increased Setbacks. The front street or side street setback shall be increased to not less than 50 feet when the principal use is located across the street from an R-1 District used for residential purposes. When the Planned Office District is an integral part of either a Planned Industrial District or a Planned Commercial District, the front street setback and the side street setback shall be not less than those prescribed for the major district.

B. Proximity to R-1 District. The following minimum distance shall be provided between the closest point of the office building closest to an R-1 District and the nearest lot line of an R-1 District used for residential purposes.

<u>Office Building Height</u>	<u>Distance to R-1 District</u>
5-6 stories	Twice the building height of the office building.
7 – 8 stories	Four times the building height of the office building.
9 or more stories	Six time the building height of the office building

C. Building Design and Construction. In addition to other restrictions of this Section and of Section 410 of this Code, the use, construction, alteration or enlargement of any building or structure within the Planned Office District shall meet the following standards:

1. All exterior wall finishes on any building shall be one or a combination of the following:
 - a. face brick;
 - b. natural stone;
 - c. specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture;
 - d. factory fabricated and finished metal framed panel construction if the panel materials are any of those noted above; or
 - e. glass or pre-finished metal (other than unpainted galvanized iron).

2. All subsequent additions, exterior alterations and accessory buildings constructed after the erection of an original building or buildings shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

850.16 Planned Commercial District (PCD).

Subd. 1 **Subdistricts.** The Planned Commercial District shall be divided into the following subdistricts:

Planned Commercial District - 1	(PCD-1)
Planned Commercial District - 2	(PCD-2)
Planned Commercial District - 3	(PCD-3)
Planned Commercial District - 4	(PCD-4)

Subd. 2 Principal Uses in PCD-1.

Antique shops.

Art galleries.

Art studios.

Bakeries, provided the room or rooms containing the preparation and baking process shall not have a gross floor area in excess of 2,500 square feet.

Barber shops.

Beauty parlors.

Bicycle stores, including rental, repair and sales.

Book and stationery stores.

Camera and photographic supply stores.

Candy and ice cream stores.

Clothes pressing and tailoring shops.

Clothing stores not exceeding 2,500 square feet of gross floor area.

Clubs, lodge halls and meeting rooms, offices and other facilities for non-profit organizations not exceeding 2,500 square feet of gross floor area.

Coin and philatelic stores.

Day care.

Drug stores.

Dry cleaning establishments and laundries.

Employment agencies.

Financial institutions, but excluding drive-through facilities and pawn shops.

Florist shops.

Food, grocery, meat, fish, bakery and delicatessen stores.

Garden supply, tool and seed stores.

Gift shops.

Handball courts, racquetball courts and exercise and reducing salons.

Hardware stores.

Hobby shops for the sale of goods to be assembled and used off the premises.

Household furnishings, fixtures and accessory stores not exceeding 2,500 square feet of gross floor area.

Interior decorating establishments.

Jewelry stores.

Launderettes.

Leather goods stores.

Liquor stores, municipally owned, off-sale.

Locksmith shops.

Medical and dental clinics.

Music and video sales and rental stores.

Musical instruments stores and repair shops.

Newsstands.

Offices, including both business and professional.

Optical stores.

Paint and wallpaper stores not exceeding 2,500 square feet of gross floor area.

Personal apparel stores not exceeding 2,500 square feet of gross floor area.

Picture framing and picture stores.

Repair stores and "fix-it" shops which provide services for the repair of home, garden, yard and personal use appliances.

Restaurants, but excluding "drive-ins" and drive-through facilities, other than as allowed in Section 850.07, Subd. 14.F

Schools.

Second-hand stores not exceeding 2,500 square feet of gross floor area, but excluding pawn shops.

Shoe sales or repair stores.

Sporting and camping goods stores not exceeding 2,500 square feet of gross floor area.

Tailor shops.

Tobacco shops.

Toy shops.

Travel bureaus and transportation ticket offices.

Variety, gift, notion and soft goods stores.

Vending machines which are coin or card operated, but excluding amusement devices.

Subd. 3 Principal Uses in PCD-2.

Any principal use permitted in PCD-1.

Amusement and recreation establishments such as amusement arcades, commercial bowling alleys and pool halls.

Animal hospitals and kennels, but excluding establishments with outside runs.

Automotive accessory stores, but excluding repair and service garages.

Blueprinting, printing and Photostatting establishments.

Business machine sales and service shops.

Catering establishments.

Clothing stores.

Clubs, lodge halls and meeting rooms, offices and other facilities for non-profit organizations.

Commercial kennels as defined by Subsection 300.01 of the City Code.

Currency exchanges as defined in M.S. 53A.

Department stores not exceeding 40,000 square feet of gross floor area.

Dry goods stores.

Electrical and household appliance stores, including radio and television sales and service.

Exterminating offices.

Fabric stores.

Frozen food stores including the rental of lockers in conjunction therewith.

Furniture stores including upholstering when conducted as an incidental part of the principal use.

Fraternal, philanthropic and charitable institution offices and assembly halls.

Furrier shops including the storage and conditioning of furs when conducted as an incidental part of the principal use.

Home repair, maintenance and remodeling stores and shops.

Hotels, motels and motor inns.

Household furnishings, fixtures and accessories stores.

Laboratories, medical and dental.

Office supplies stores.

Orthopedic and medical appliance stores, but excluding the manufacturing or assembly of appliances or goods.

Paint and wallpaper stores.

Personal apparel stores.

Pet shops.

Photography studios.

Post offices.

Public utility service stores.

Rental agencies for the rental only of clothing, appliances, automobiles, cartage trailers, and household fixtures, furnishings and accessories, excluding pawn shops.

Schools for teaching music, dance or business vocations.

Sporting and camping goods stores.

Taxidermist shops.

Telegraph offices.

Theaters, but excluding outdoor or "drive-in" facilities.

Ticket agencies.

Trading stamps redemption stores.

Undertaking and funeral home establishments.

Subd. 4. Principal Uses in PCD-3.

Any principal use permitted in PCD-2, except offices requiring the issuance of a conditional use permit.

Department stores or shopping centers exceeding 40,000 square feet of gross floor area.

Transit stations.

Publicly owned uses.

Sexually oriented businesses.

Subd 5. Principal Uses in PCD-4.

Automobile service centers.

Car washes.

Gas stations.

Subd. 6. Conditional Uses.

A. PCD-1 and PCD-2. Multi-residential uses.

B. PCD-3.

Automobile agencies selling new, unused vehicles.

Boat or marine stores or agencies selling or displaying new, unused boats.

Multi-residential uses.

Offices except offices allowed as a permitted accessory use.

All non-residential uses that increase the FAR to more than 0.5.

Subd. 7. Accessory Uses in PCD-1.

Off-street parking facilities.

Buildings for the storage of merchandise to be retailed by the related principal use.

Not more than two amusement devices.

Drive through facilities, except those accessory to financial institutions. A restaurant may have a drive-through facility subject to the requirements in Section 850.07, Subd. 14.F.

Produce stands pursuant to a permit issued by the Manager

Subd. 8. Accessory Uses in PCD-2.

All accessory uses allowed in PCD-1.

Drive-through facilities.

Amusement devices.

Subd. 9. Accessory Uses in PCD-3.

All accessory uses permitted in PCD-1 and PCD-2.

Automobile or boat and marine stores or agencies selling used automobiles or boats, if (i) such a use is accessory to and on the same lot as a related principal use selling new automobiles or boats, and (ii) the total floor area and lot area devoted to the accessory use does not exceed that of the principal use.

Repair garages for servicing motor vehicles, if such a use is on the same lot as an automobile agency.

Offices accessory to an allowed principal use.

Subd. 10. Accessory Uses in PCD-4.

Accessory car washes.

Retail sales of convenience goods.

Gasoline sales accessory to a car wash.

Subd. 11. Requirements for Building Coverage, Setbacks and Height.

A. Maximum Floor Area Ratio (subject to the requirements of Subd. 12 of this Subsection)

PCD-1	1.0 of the tract
PCD-2	1.5 of the tract
PCD-3	i) North of West 70 th Street: 1.0 of the tract provided that non-residential uses may not exceed 0.75. ii) South of West 70 th Street: 0.5 of the tract.
PCD-4	0.3 of the tract

B. Setbacks (Subject to the requirements of paragraphs A. and B. of Subd. 11 of this Subsection).

	Front Yard	Side Yard	Side Yard	Rear Yard
PCD-1	35'*	25'*	25'*	25'*
PCD-2	35'*	25'*	25'*	25'*
PCD-3				
North of 70 th St	35'**	35'**	35'**	35'**
South of 70 th St.	50**	50**	50**	50**
PCD-4	35'	25'	25'	25'
Gas Stations				
All other uses	45'	25'	45'	25'

* or the building height if greater

** Subject to the requirements of Subd. 12 of this Subsection.

C. Maximum Building Height.

PCD-1	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
PCD-2	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
PCD-3	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.
PCD-4	See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.

Subd. 12. **Special Requirements.** In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply:

A. Established Average Front Street Setback for PCD-1 and PCD-2. When more than 25 percent of the frontage on one side of the street between intersections is occupied by buildings having front street setbacks of greater or lesser distances than hereafter required, then the average setback of the existing buildings shall be maintained by all new or relocated buildings on the same side of that street and between the intersections. If a building is to be built or relocated where there is an established average setback, and there are existing buildings on only one side of the building or relocated building, the front street setback of the new or relocated building need be no greater than that of the nearest adjoining principal building. If a building is to be built or relocated where there is an established average setback and there are existing buildings on both sides of the new or relocated building, the front street setback need be no greater than that which would be established by connecting a line between the most forward portion of the adjacent principal building on each side.

B. Interior Side Yard and Rear Yard Setbacks. Interior side yard and rear yard setbacks including parking setbacks and loading facility setbacks apply only when the side or rear lot line is a Planned Commercial District boundary.

C. Setbacks for PCD-3. The minimum building setback required by Paragraph B of Subd. 11 of this subsection shall be increased as follows:

1. In the area bounded by France Avenue on the west, York Avenue on the east and W. 70th Street on the south, the minimum building setback shall be increased by 1/3 foot for each foot that the building exceeds 50 feet in building height. For purposes hereof, only those portions of buildings which exceeds 50 feet in building height need provide the additional setbacks required by this paragraph.

2. In all other areas, the minimum building setback shall be equal to the building height for buildings taller than 50 feet.

Notwithstanding the requirement of this subsection, the City encourages i) ground level retail and service uses that create an active pedestrian and streetscape environment and ii) pedestrian connections by way of skyways and tunnels. The City Council will consider exceptions to setback requirements for these purposes.

D. Travel Demand Management. Final development plans for any office use in the PCD-3 subdistrict which requires the issuance of a conditional use permit shall include a travel demand management (TDM) plan prepared by an independent TDM professional.

The plan must document TDM measures and performance measures to be implemented. Approval of the TDM plan by the City shall be a condition of the issuance of the conditional use permit.

E. On Site Sanitary Sewage Retention System. This paragraph applies to properties served by Metropolitan Sewer Interceptor No. 1-RF-491. Final development plans for any new buildings or uses in the PCD-3 subdistrict that require the issuance of a conditional use permit shall include plans for storage tanks and other facilities designed to retain on-site sanitary sewer discharges during peak flow conditions that would otherwise enter the City's sanitary sewer system. Such plans must be prepared by a licensed professional engineer acceptable to the City. The plans must provide for facilities designed to prevent discharges to the sanitary sewer system during peak flow conditions, in amounts and volumes that exceed discharges that existed prior to construction of the buildings and uses proposed by the final development plans. Approval of the sanitary sewer retention system shall be a condition of the conditional use permit. In lieu of constructing a storage tank, a cash fee equal to the cost of constructing the storage tank may be paid to the city. The fee shall be placed in a dedicated fund to pay for the cost of reducing inflow and infiltration into the sanitary sewer system. A credit against the fee shall be given for any expenditures made to reduced inflow and infiltration on-site. Section 850.16, subd. 12, paragraph F of the Edina City Code is repealed effective the day that the capacity of Metropolitan Sewer Interceptor No. 1-RF-491 is improved to increase its capacity by at least +/- 69%.

F. Proximity to R-1 District. The following minimum distance shall exist between buildings in the Planned Commercial District and the nearest lot line of an R-1 District lot used for residential purposes:

Building Height	Distance to R-1 District
5-6 stories	Twice the building height of the building in the Planned Commercial District.
7-8 stories	Four times the building height of the building in the Planned Commercial District.
9 or more stories	Six times the building height of the building in the Planned Commercial District.

G. Storage. All materials, supplies, merchandise and other similar materials not on display for direct sale, rental or lease to the ultimate consumer shall be stored within a completely enclosed building or within the confines of a completely opaque wall or fence capable of completely screening all the materials from adjoining properties. The wall or fence under no circumstances shall be less than five feet in height.

H. Displays. Merchandise which is offered for sale may be displayed outside of buildings in the PCD-1, PCD-2 and PCD-3 subdistricts, provided the area occupied by the display shall not exceed ten percent of the gross floor area of the building or portion thereof housing the principal use. No displays shall be permitted within that half of the required front street or side street setback nearest the street, nor within any required side yard or rear yard setback. Agencies selling automobiles or boats, as permitted by this Section, may display automobiles or boats outside of a building if the area used for the displays shall comply with all the standards for a parking lot including construction, setbacks, landscaping and screening as contained in this Section.

I. Minimum Building Size. The minimum size for any building housing one or more principal uses in the PCD-1, PCD-2 or PCD-3 subdistricts shall be 1,000 square feet of gross floor area within the first story.

J. Outdoor Sales, Tent Sales and Trailer Sales Prohibited. Except for the dispensing of motor fuels and the use of drive-through facilities permitted by this Section, all sales of products and merchandise, and dispensing of services, shall be conducted from within the confines of a permanent building totally enclosed by four walls and a roof. The sale of products and merchandise, and the dispensing of services, from a motor vehicle, trailer, tent or other temporary structure or shelter, or outside of a permanent building as above described, is prohibited.

K. Building Design and Construction. In addition to the other restrictions of this Section and of Section 410 of this Code, the use, construction, alteration or enlargement of any building or structure within the Planned Commercial District shall meet the following standards:

1. All exterior wall finishes on any building shall be one or a combination of the following:

- a. face brick;
- b. natural stone;
- c. specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture;
- d. factory fabricated and finished metal framed panel construction if the panel materials are any of those noted above; or
- e. glass or prefinished metal (other than unpainted galvanized iron).

2. All subsequent additions, exterior alterations and accessory buildings constructed after the erection of an original building or buildings shall be constructed of the same materials as the original building and shall be designed in a manner conforming to the original architectural design and general appearance.

L. Performance Standards. All business operations shall conform to the performance standards established by this Section for the Planned Industrial District provided that the performance standards shall be applied, and must be complied with, at the boundaries of the lot on which the business operations take place.

M. Maximum Business Establishment Size in PCD-1 Subdistricts. No use in the PCD-1 subdistrict shall exceed 12,000 square feet of gross floor area or the lesser gross floor area as is imposed on the use by Subd. 2 of this Subsection 850.16.

N. Drive-In Uses. Except for the dispensing of motor fuels, drive-in uses shall not be permitted. Nothing herein contained, however, prohibits accessory drive-through facilities where permitted by this Subsection 850.16.

O. Automobile Service Centers and Gas Station Standards.

1. Minimum lot area:

- a. for an automobile service center, 20,000 square feet, plus 5,000 square feet for each service bay in excess of three.
- b. for a gas station, 15,000 square feet.

2. Maximum lot area: 60,000 square feet.

3. Hydraulic hoists, pits, lubrication, washing, repairing and diagnostic equipment shall be used and stored within a building.
4. Interior curbs of not less than six inches in height shall be constructed to separate driving surfaces from sidewalks, landscaped areas and streets.
5. No automobile service station on a lot adjoining a lot in a residential district shall be operated between the hours of 11:00 P.M. and 6:00 A.M.
6. All driving surfaces shall be constructed and maintained in the same manner as prescribed for parking lots by this Section.
7. No merchandise shall be displayed for sale outside a building except in that area within four feet of the building or within pump islands used for dispensing motor fuels.
8. No motor vehicles except those owned by the operators and employees of the principal use, and vehicles awaiting service, shall be parked on the lot occupied by the principal use. Vehicles being serviced may be parked for a maximum of 48 hours.
9. Body work and painting is prohibited.
10. No buildings, driveway surfaces, parking areas or other improvements shall be located within 110 feet of any portion of a lot in a residential district which is used for residential purposes if separated from the lot by a street, or within 50 feet if not so separated by a street.
11. Pump islands shall maintain a front and side street setback of at least 20 feet and an interior side yard and rear yard setback of at least 25 feet.
12. Notwithstanding the requirements of Subsection 850.08, driveways and drive aisles need only provide a setback of not more than five feet from all lot lines, subject to the requirements of subparagraph 10. of paragraph L. of this Subd. 11.

P. Car Wash Standards.

1. A car wash shall be subject to the same standards as specified herein for automobile service centers.
2. All waste water disposal facilities, including sludge, grit removal and disposal equipment, must be approved by the Engineer prior to installation.
3. Not more than one point of ingress and one point of egress shall be allowed from any one public street to the car wash.

Q. Standards for Sexually-Oriented Businesses.

1. No sexually-oriented business shall be located closer than 500 feet from any other sexually-oriented business or licenses day-care facility. Measurements shall be made in a straight line, without regard to intervening structures or objections, from the nearest point of the actual premises of the sexually-oriented business or licenses day-care facility.
2. No sexually-oriented business shall be located closer than 500 feet from any property in the R-1, R-2, PRD, PSR or MDD District, or any residentially zoned property in the city adjoining the City. Measurements shall be made in a straight

line, without regard to intervening structures objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest boundary of the R-1, R-2, PRD, PSR, or MDD District.

R. Standards for Residential Dwelling Units.

1. No part of any dwelling unit shall be located in a basement or on the first story of a building in the PCD-1 or the PCD-2 subdistricts.
2. In the PCD-1 and the PCD-2 subdistricts, the floor area of that portion of a building used for multi-residential purposes shall not be included for the purpose of calculating the maximum floor area ratio allowed by Paragraph A of Subd. 11 of this Subsection.
3. In the PCD-3 subdistrict, the floor area of buildings or portions thereof used for multi- residential purposes shall be included for the purpose of calculating the maximum floor area ratio allowed by Paragraph A of Subd. 11 of this Subsection.
4. In the PCD-3 subdistrict, the maximum floor area ratio allowed by Paragraph A of Subd. 11 of this Subsection may be increased by .25 by including the floor areas of dwelling units classified as affordable housing units pursuant to an agreement with the Housing and Redevelopment Authority of Edina.

850.17 Planned Industrial District (PID)

Subd. 1 Principal Uses.

- A. All principal uses allowed in the Planned Office District.
- B. Manufacturing, compounding, processing, packaging, treatment and assembly of products and materials.
- C. Scientific research, investigation, testing or experimentation.
- D. Warehousing of non-perishable products, if the products are owned by or consigned to the owner of the principal use or its lessee, and further, if the owner or lessee does not establish the principal use in the capacity of a carrier for the purpose of a freight operation.
- E. Businesses that provide a service to the consumer on the consumer's property and not on the lot occupied by the principal use, including, but not limited to, building contractors, plumbing contractors, swimming pool construction and service companies and exterminating offices.
- F. Blueprinting, Photostatting and printing shops.
- G. Office equipment showrooms and repair services.
- H. Mini-storage warehouses for storage of domestic supplies, recreational vehicles and equipment and other private property, if the owner of the private property is responsible for transporting the property to and from the principal use, and further, if the owner of the principal use does not establish the use as a carrier for the purpose of a freight operation.
- I. Animal hospitals, but excluding establishments with outside runs.
- J. Currency exchanges as defined in M.S. 53A.

Subd. 2 Conditional Uses.

A. Religious Institutions, including churches, synagogues, chapels, temples and mosques.

Subd. 3 Accessory Uses.

A. Warehousing of products manufactured by the principal use.

B. Offices and administrative facilities.

C. Shipping and receiving spaces, mailing rooms and order pick-up facilities.

D. Cafeterias, educational facilities, vending services and recreational establishments for persons employed by the business comprising the principal use.

E. Within buildings having office space comprising not less than 40,000 square feet of gross floor area, ten percent of the gross floor area may be occupied by retail uses allowed in the PCD-1 and PCD-2 Districts, if the accessory uses are accessible only from the interior of the principal building and have no signs or displays relative to it visible from the outside of the principal building.

F. Temporary retail sales pursuant to a permit issued in accordance with this Subsection 850.17.

G. Off-street parking facilities.

H. Commercial kennels as defined in Subsection 300.01 of this Code, which are accessory to animal hospitals, but excluding kennels with outside runs.

Subd. 4 Requirements for Building Coverage, Setback and Height.

A. Minimum Tract Area. No tract of land shall be transferred to the Planned Industrial District unless the tract measures at least ten acres in area or is contiguous to other land in the Planned Industrial District.

B. Minimum Lot Area. Two acres.

C. Minimum Building Area. Each building shall have a gross floor area of not less than 10,000 square feet.

D. Maximum Building Coverage.

1. Lots of less than three acres: 30 percent.

2. Lots of three acres or more: 45 percent.

a. may be increased to 60 percent if the total gross floor area on the lot is contained within a single building and all portions of any loading docks and berths are completely enclosed within the same single building.

E. Maximum FAR: 0.5

1. May be increased to 0.6 for buildings which qualify for 60 percent building coverage as provided in paragraph D of Subd. 3 of this Subsection 850.17.

F. Setbacks.

		Interior	
Front	Side	Side	Rear
Street	Street	Yard	Yard
50'*	50'*	20'*	20'*

* or the building height if greater.

G. Maximum Building Height. See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.

Subd. 5 **Special Requirements.** In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply:

A. Increased Front Street and Side Street Setbacks. The minimum setback from a street shall be increased to 75 feet if the tract is located across the street from property in a residential district used for residential purposes.

B. Increased Side Yard and Rear Yard Setbacks. The minimum setback from an interior lot line shall be increased to 100 feet if the lot line adjoins property in a residential district used for residential purposes.

C. Temporary Retail Sales and Going out of Business Sales Permits.

1. The Manager may grant a permit for a temporary retail sale or going out of business sale, if:

a. the temporary retail sale shall not exceed three consecutive days, and the going out of business sale shall not exceed ten consecutive days;

b. not more than two temporary retail sale permits may be issued to any one person, firm, affiliate, subsidiary or building in a calendar year, and further provided that the two permitted sales must occur at least 60 days apart. Not more than one going out of business sale permit may be issued to any one person, firm, affiliate or subsidiary in a three-year period; and

c. an application for the permit must be filed with the Planner on forms provided by the Planner not less than 30 days before the beginning of the sale. The application shall be co-signed by the owner of the lot or building and accompanied by an application fee as specified in Section 185 of this Code.

2. The Manager shall not issue a permit without finding that:

a. the sale will not impair the safe movement of traffic in the vicinity and will not impact surrounding residential areas;

b. adequate facilities for off-street parking are available;

c. all buildings housing the sale have adequate fire protection facilities and ingress and egress for the public;

d. the sale will not conflict with other scheduled sales in the vicinity;

e. prior sales conducted by the applicant conformed to the requirements of this Section; and

f. adequate personnel for public safety purposes will be provided by the applicant.

3. Additional requirements:

a. all goods shall be displayed and sold within the principal building;

b. no goods may be shipped to the building or lot especially for the temporary retail sale or going out of business sale; and, if requested, an inventory audit, spot check or verification of goods for sale shall be given

to the Manager within ten days before the sale; and

c. a permit granted and unused may be transferred to another day or days by the Manager upon written request received by the Manager at least ten days prior to the requested sale.

D. Building Design and Construction. In addition to other restrictions of this Section and of Section 410 of this Code, the use, construction, alteration or enlargement of any building within the Planned Industrial District shall meet the following standards:

1. All exterior wall finishes on any building shall be one or a combination of the following materials:

a. face brick;

b. natural stone;

c. specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture;

d. factory fabricated and finished metal framed panel construction if the panel materials are any of those noted above; or

e. glass or prefinished metal (other than unpainted galvanized iron).

2. All subsequent additions, exterior alterations and accessory buildings constructed after the erection of an original building or buildings shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.

E. Restrictions, Controls and Design Standards. Uses which because of the nature of their operation are accompanied by an excess of noise, vibration, dust, dirt, smoke, odor, noxious gases, glare or wastes shall not be permitted. These residual features shall be considered as "excessive" when they either exceed or deviate from the limitations set forth in the following performance specifications.

1. Noise. Noise shall be measured on any property line of the tract on which the use is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the decibel levels given in the following table. The sound pressure level shall be measured with a sound level meter and on an associated octave band analyzer, both of which shall be manufactured according to current specifications prescribed by the American Standard Association. Measurement shall be made using the flat network of the sound level meter.

<u>Octave Band Frequency (Cycles Per Second)</u>	<u>Maximum Decibel Level</u>
20-75	65
76-150	60
151-300	55
301-600	46

601-1200	40
1201-2400	34
2401-4800	31
Over 4800	28

2. Vibration. No use shall at any time cause earth vibrations perceptible beyond the limits of the tract on which the use is located.

3. Dust and Dirt. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air.

4. Smoke. Measurement shall be at the point of emission. The then most recent Ringleman Smoke Chart published by the United States Bureau of Mines shall be used for the measurement of smoke and is hereby adopted and incorporated into this Section by reference and made a part of this Section. Smoke not darker or more opaque than No. 1 on the chart may be emitted. However smoke not darker or more opaque than No. 2 on the chart may be emitted for periods not longer than four minutes in any 30-minute period. These provisions, applicable to visible grey smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.

5. Odor. The use shall not, at any time, cause the discharge of toxic, noxious or odorous matter beyond the confines of the principal building in such concentrations as to be detrimental to or endanger the public health, welfare, comfort or safety.

6. Glare. Glare, whether directed or reflected, such as from spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the limits of the tract from which it originates.

7. Liquid Wastes. Liquid wastes containing any organic or toxic matter shall be discharged either into a public sanitary sewer or treated in a manner prescribed by the Health Department. The rate of liquid waste discharged into the City's sanitary sewerage system shall not exceed 200 gallons per lot per hour between the hours of 9:00 A.M. and 12:00 noon.

In order to ensure compliance with the performance standards set forth above, the Planner may require the owner or operator of any use to make, without cost to the City, investigations and tests as the Planner deems necessary, to show adherence to the performance standards. The investigations and tests shall be done by an independent testing organization approved by the Planner.

F. Mini-Storage Warehouse Standards.

1. No doors through which personal property is loaded or unloaded shall be located on a side of a building which faces a residential district.

2. In addition to the requirements in this subsection for temporary retail sales permits, the following requirements shall apply:

a. no more than two temporary retail sale permits per principal building, or per lot if there is more than one principal building on the lot, shall be issued annually in accordance with the provisions of this paragraph; and

b. the permit shall be applied for only by the owner of the principal building, the intention being that each lessee within the mini-storage building shall not be eligible individually for a temporary retail sales permit.

3. Only non-perishable and non-volatile products may be stored.

850.18 Regional Medical District (RMD)

Subd. 1 Principal Uses.

A. Hospitals.

B. Medical and dental offices and clinics.

C. Laboratories for performing medical or dental research, diagnostic testing, analytical or clinical work, having a direct relationship to the providing of health services, including, but not limited to, medical research, radiology, hematology, serology, immunology, allergy, biochemistry, basal metabolism, microbiology, parasitology, pathology, histology, cytology, toxicology and pharmacology. Laboratories engaged in the production or manufacture of goods or products for commercial sale or distribution shall not be considered laboratories within the meaning and intent of this paragraph.

Subd. 2 Accessory Uses.

A. Living quarters and recreational and educational facilities for nurses, interns, staff members, hospital employees and volunteers, if the uses are located within or are contiguous to the principal building.

B. Off-street parking facilities for ambulances, service trucks and automobiles owned by tenants, employees, patients and visitors.

C. Within principal buildings having a gross floor area of 40,000 square feet or more, ten percent of the floor area may be occupied by retail uses allowed in the PCD-1 and PCD-2 subdistricts, if the primary function of the uses is to serve the needs of occupants of, and visitors to, the principal use.

D. Helistops for use by helicopters involved in emergency rescue operations.

Subd. 3 Requirements for Building Coverage, Setbacks and Height.

A. FAR: 1.0.

B. Setbacks.

		Interior	
Front	Side	Side	Rear
Street	Street	Yard	Yard
35'*	35'*	20'*	20'*

* or the building height if greater.

C. Building Height. See Section 850.22, Building Height Overlay District and Appendix A of the City's Official Zoning Map.

D. Minimum Tract Area. No tract of land shall be transferred to the Regional Medical District unless the tract measures at least ten acres in area or is contiguous to other land in the Regional Medical District.

Subd. 4 **Special Requirements.** In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply.

A. All uses shall conform to the same requirements as are established by this Section for the Planned Office District (POD).

B. All uses shall comply with the same standards for residual features as are established by this Section for the Planned Industrial District (PID)

850.19 Automobile Parking District (APD)

Subd. 1 Principal Uses.

A. Parking lots.

B. Drive-through banking facilities.

Subd. 2 Conditional Uses.

A. Parking ramps and garages.

Subd. 3 Requirements for Setbacks.

A. Parking Lots.

		Interior	
Front	Side	Side	Rear
Street	Street	Yard	Yard
20'	20'	10'	10'

B. Parking Ramps, Garages and Other Structures.

		Interior	
Front	Side	Side	Rear
Street	Street	Yard	Yard
35'*	35'*	20'*	20'*

* or the building height if greater.

Subd. 4 **Special Requirements.** In addition to the general requirements described in Subsection 850.07, the following special requirements shall apply.

7. No parking ramp, garage or other structure, or any part thereof, shall be located within 50 feet of the nearest lot line of any property in a residential district used for residential purposes.
8. The front street or side street setback for parking ramps and garages, and other structures, shall be increased to 50 feet when the ramp, garage or structure is located across the street from a property in an R-1 District used for residential purposes.
9. All exterior wall finishes of a parking ramp or garage shall be of materials that are compatible with those of existing nearby structures and shall be one or a combination of the following materials which shall be determined by the Council in connection with the granting of a Conditional Use Permit:
 - d. Face brick.
 - e. Natural stone.
 - f. Specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture.

850.20 Edina Heritage Landmarks

Subd 1 **Purpose.** The zoning classification of Edina Heritage Landmark is established to promote the preservation, protection and use of significant heritage resources in the City. Heritage landmarks shall be nominated by the Heritage Preservation Board and designated by Council resolution.

Subd. 2 **Eligibility Criteria.** The following criteria will guide the Heritage Preservation Board and the Council in evaluating potential heritage landmark designations:

A. The quality of significance in history, architecture, archeology, and culture present in buildings, sites, structures, objects and districts that reflects:

1. Association with important events or patterns of events that reflect significant broad patterns in local history; or
2. Association with the lives of historically significant persons or groups significant; or
3. Embodiment of the distinctive characteristics of an architectural style, design, period, type, or method of construction; or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. Important archeological data or the potential to yield important archeological data.

B. The retention of specific aspects of historical integrity, including location, design, setting, materials, workmanship, feeling, and association, that convey significance as a heritage resource worthy of preservation.

Subd. 3 **Determination Of Eligibility.** The Heritage Preservation Board shall review the inventory of heritage resources and evaluate the significance of all properties identified by survey. If it determines that a surveyed heritage resource appears to meet at least one of the heritage landmark eligibility criteria, the Heritage Preservation Board may by majority vote issue a determination of eligibility for planning purposes.

Subd 4. **Nomination Of A Heritage Landmark.** Nomination of a property to be considered for designation as an Edina Heritage Landmark shall be submitted to the Council by the Heritage Preservation Board. Each nomination shall be accompanied by a heritage landmark nomination study prepared by the City Planner. This study shall:

- A. Identify and describe in detail the heritage resource being nominated;
- B. Explain how the property meets one or more of the heritage landmark eligibility criteria;
- C. Make the case for historical significance and integrity; and
- D. Recommend a plan of treatment for the heritage resource, with guidelines for design review and specific recommendations for preservation, rehabilitation, restoration, and reconstruction as appropriate.

The study shall be accompanied by a map that clearly locates the property, a detailed plan of the nominated heritage resource, and archival quality photographs that document significant features of the building, site, structure, object, or district.

Subd. 5. **State Historic Preservation Office Review.** The City Planner shall submit all heritage landmark nominations to the state historic preservation officer for review and comment within sixty (60) days.

Subd. 6. **Planning Commission Review.** The City Planner shall submit all heritage landmark nominations to the city planning commission for review and recommendations prior to any Council action.

Subd. 7 **Public Hearing.** On receipt of the heritage landmark nomination documents and the comments of the state historic preservation office and the city planning commission, the Council shall hold a public hearing to consider the proposed landmark designation.

Subd. 8 **City Council Designation.** The Council may designate a property as an Edina Heritage Landmark by resolution.

Subd. 9 **Designation Of Heritage Landmarks On Zoning Map.** The Planning Commission shall place all designated heritage landmarks on the official city-zoning map.

Subd. 10 **Review Of Permits.**

A. To protect significant heritage resources, the Heritage Preservation Board shall review all applications for city permits for the following types of work in relation to a designated heritage landmark:

1. Demolition of any building or structure, in whole or in part;
2. Moving a building or structure to another location;
3. Excavation of archeological features, grading or earth moving in areas believed to contain significant buried heritage resources; and
4. New construction.

B.No city permits for the types of work described in paragraph A. of this subsection will be issued without a certificate of appropriateness signed by the Planner and approved by the Heritage Preservation Board evidencing compliance with the comprehensive heritage preservation plan. Applications for a certificate of appropriateness shall be made on forms provided by the Planning Department and shall be accompanied by the fee set forth in Section 185 of this Code. The application shall be accompanied by plans and drawings to scale, which clearly illustrate, to the satisfaction of the Planner, the work to be undertaken if the permit is granted. Certificates of appropriateness may be granted subject to conditions

C.Permit review decisions shall be based on the Secretary of the Interior's Standards for the Treatment of Historic Properties, the Comprehensive Heritage Preservation Plan, and the heritage landmark preservation study for each designated property.

D. The City Planner and the Heritage Preservation Board shall complete their review of applications for city permits requiring certificates of appropriateness within forty-five (45) days of the date of application.

E. The City Planner and the Heritage Preservation Board may issue certificates of appropriateness for work projects submitted voluntarily by owners of heritage resources.

F. To assure compliance with the goals and policies of the comprehensive heritage preservation plan, the Heritage Preservation Board shall review every application for a preliminary plat, conditional use permit, variance, or rezoning in relation to a designated heritage landmark; and the City planning commission shall give the Heritage Preservation Board a reasonable opportunity to comment on such projects before making its recommendation to the Council.

Subd. 11 **Appeals** Any party aggrieved by a decision of the Heritage Preservation Board or an administrative official may appeal such decision by filing a written appeal with the City Clerk no later than ten days after the decision of the Heritage Preservation Board or the administrative official. If not so filed, the right of appeal shall be deemed waived and the decision of the Heritage Preservation Board or administrative official shall be final. Upon receipt of the appeal, the City Clerk shall transmit a copy of said appeal to the Heritage Preservation Board. The Council shall hear and decide all appeals in the manner provided by paragraph H of Subsection 850.04 of the Code.

Subd. 12. **Violation.** Violations of the provisions of this chapter or the conditions of approval granted thereunder shall be a misdemeanor. This chapter may also be enforced by injunction, abatement, or any other appropriate remedy in any court of competent jurisdiction.

Subd. 13 **Maintenance Of Heritage Landmark Properties.** Every owner or person in possession of a designated heritage landmark shall keep the property in good repair.

850.21 General Flood Plain District (FD).

Subd. 1. Statutory Authorization, Findings Of Fact And Purpose

A Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the Council does adopt this Subsection 850.21

B. Findings of Fact. In addition to the findings set forth in Subsection 850.01 of this Code, it is hereby further found and declared that:

1. The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. Methods Used to Analyze Flood Hazards. This Subsection is based upon a reasonable method of analyzing flood hazards, which is consistent with the standards established by the Minnesota Department of Natural Resources.

3. **National Flood Insurance Program Compliance.** This Subsection is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

C. **Statement of Purpose:** It is the purpose of this Subsection 850.21 to promote the public health, safety, and general welfare and to minimize those losses described in Subd. 1. of Paragraph B. of Subd. 1 of this Subsection 850.21 by provisions contained herein.

Subd. 2. **Definitions.** The words and phrases used in this Subsection 850.21 shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this subsection its most reasonable application. However, they shall be subject to the rules of construction and definitions in Subsection 850.03 and, to the extent defined below shall have the following meanings for purposes of this Subsection

Accessory Use or Structure. As defined in Subsection 850.03.

Basement. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level. This definition shall apply only to this Subsection 850.21 and for purposes of this Subsection, this definition shall control over the definition in Subsection 850.03.

Conditional Use. As defined in Subsection 850.03.

Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City developed by the Federal Emergency Management Agency.

Flood Plain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Flood Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Map. The Official Flood Plain Zoning Map described in Subd. 3 of this Subsection 850.21.

Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Principal Use or Structure. Means all uses or structures that are not accessory uses or structures.

Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Recreational Vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Subsection, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study prepared for the City.

Regulatory Flood Protection Elevation. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Structure. As defined in Subsection 850.03.

Substantial Damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Subsection, “historic structure” shall be as defined in Code of Federal Regulations, Part 59.1.

Variance. Means a modification of a specific permitted development standard required by any section of this Code, including this Subsection 850.21, to allow an alternative development standard not stated as acceptable in the applicable section of this Code, but only as applied to a particular property for the purpose of alleviating an undue hardship, as defined and elaborated upon in Subsection 850.04.

Subd. 3. **General Provisions**

A. **Lands to Which Subsection Applies:** This Subsection shall apply to all lands within the jurisdiction of the City shown on the Official Floodplain Zoning Map (hereinafter described) and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

B. **Establishment of Official Floodplain Zoning Map.** The Map, a composite copy of which, reduced in size, is appended to this Code, together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Subsection 850.21. The attached material shall include the Flood Insurance Study, Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, All Jurisdictions and the Flood Insurance Rate Map panels numbered 27053C0342E, 27053C0344E, 27053C0362E, 27053C0363E, 27053C0364E, 27053C0432E, 27053C0451E, AND 27053C0452E for the City, dated September 2, 2004, as developed by the Federal Emergency Management Agency and Panel 27053C0361E dated September 28, 2007. The Maps shall be on file in the office of the Planner.

C. **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

D. **Interpretation:**

- 1. In their interpretation and application, the provisions of this Subsection 850.21 shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by applicable ordinances or state law.

2. The boundaries of the zoning districts shall be determined by scaling distances on the Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Planner, the Board shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the City adopted its initial floodplain ordinance, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

E. Abrogation and Greater Restrictions: It is not intended by this Subsection 850.21 to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Subsection imposes greater restrictions, the provisions of this Subsection shall prevail.

F. Warning and Disclaimer of Liability: This Subsection 850.21 does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Subsection shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Subsection or any City action taken or administrative Board, Commission or Council decision lawfully made thereunder.

G. Other Zoning Districts and Provisions: The inclusion of land within the General Flood Plain District shall not change or affect, in any way, the uses allowed on, and the restrictions and requirements then or thereafter applicable to, the land under any other zoning classification in which the land is then or thereafter located, all of which shall continue to apply, but the additional restrictions of the General Flood Plain District shall also apply to such land. Where the provisions in this Subsection 850.21 are inconsistent with or contradictory to the provisions in any other section of this Code, then the most stringent provisions shall apply and be complied with.

H. Severability: If any section, clause, provision, or portion of this Subsection is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Subsection shall not be affected thereby.

Subd. 4. Establishment Of Zoning Districts

A. Districts.

1. Floodway District (FW). The Floodway District shall include those areas designated as floodway on the Map.

2. Flood Fringe District (FF). The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Map as being within Zone AE, Zone A0, or Zone AH but being located outside of the floodway.

3. General Flood Plain District (FD). The General Flood Plain District shall include those areas designated as Zone A or Zones AE, Zone A0, or Zone AH without a floodway on the Map.

B. Compliance. No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Subsection and other applicable regulations which apply to uses within the jurisdiction of this Code. Within the Floodway District, Flood Fringe District and General Flood Plain District, all uses not listed as permitted uses or conditional uses in Subds. 5, 6 and 7 of this Subsection 850.21, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes and replacement manufactured homes are subject to the general provisions of this Section 850 and specifically Subd. 10 of this Subsection 850.21.
2. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Section 850 and specifically Subd. 12 of this Subsection 850.21.
3. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Code and specifically as stated in Subd. 11 of this Subsection 850.21.
4. Mobile homes and mobile home parks, and recreational vehicles are prohibited in the Floodway District (FW).

Subd. 5 Floodway District (FW)

A. Permitted Uses. The following uses are permitted in the Floodway District if they comply with the standards set out in paragraph B. of this Subd. 5:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial loading areas, parking areas, and airport landing strips.
3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
4. Residential lawns, gardens, parking areas, and play areas.

B. Standards for Floodway District Permitted Uses.

1. The use shall be a permitted use in the underlying zoning district established by this Subsection 5.
2. The use shall have a low flood damage potential.

3. The use shall be permissible in the underlying zoning district if one exists.
4. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. Conditional Uses. The following uses are conditional uses in the Floodway District and shall be allowed only if they comply with the standards set out in paragraph D. of this Subd. 5 and then only pursuant to the issuance of a conditional use permit.

1. Structures accessory to the uses listed in paragraph A above and the uses listed in subparagraphs 2-7 below.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Railroads, streets, bridges, utility transmission lines, and pipelines.
5. Storage yards for equipment, machinery, or materials.
6. Placement of fill or construction of fences.
7. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards for Floodway District Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. All floodway conditional uses shall be subject to the procedures and standards contained in paragraph D. of Subd. 11 of this Subsection 850.21.
3. The conditional use shall be permissible in the underlying zoning district established by this Section 850.
4. Fill:
 - a. fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
 - b. dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

c. as an alternative, and consistent with subparagraph b. immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the City has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title filed for record against the property in the Hennepin County real estate records.

5. Accessory Structures:

a. Accessory structures shall not be designed for human habitation.

b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

(i) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(ii) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

c. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

(i) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

(ii) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

(iii) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

6. Storage of Materials and Equipment:

- a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Planner.
7. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
8. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

Subd. 6 Flood Fringe District (FF)

A. Permitted Uses: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use districts established by this Section 850. All permitted uses shall comply with the standards listed in paragraphs B. and E. of this Subd. 6.

B. Standards for Flood Fringe District Permitted Uses:

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with part c. of subparagraph 5. of paragraph D. of Subd. 5 of this Subsection 850.21.
3. The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with subparagraph 1. of paragraph B. of this Subd. 6.
4. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
5. The provisions of paragraph E. of this Subd. 6 shall apply.

C. Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with subparagraphs 1. and 2. of paragraph B. of this Subd. 6 and or any use of land that does not comply with the standards in subparagraphs 3. and 4. of paragraph B. of this Subd. 6 shall only be allowable as a conditional use and then

only if pursuant to the issuance of a conditional use permit. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in paragraphs D. and E. of this Subd 6 and paragraph D. of Subd. 11 of this Subsection 850.21.

D. Standards for Flood Fringe District Conditional Uses.

1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

a. Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

b. Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(i) A minimum area of automatic openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(ii) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the Building Code and shall be used solely for building access, parking of vehicles or storage.

2. Basements shall be subject to the following:

- a. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with subparagraph 3. of paragraph D. of Subd 6 of this Subsection.
 3. All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
 4. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted to the Planner. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Planner. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
 5. Storage of Materials and Equipment:
 - a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
 6. The provisions of paragraph E. of Subd. 6 of this Subsection shall also apply.
- E. Standards for All Flood Fringe District Uses.
1. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

2. Accessory commercial uses of land, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
3. For manufacturing and industrial uses measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subparagraph 2. of paragraph E. above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation, FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Map.
6. Standards for recreational vehicles are contained in Subsection 1046.03 and shall apply in the Flood Fringe (FF).
7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
8. No use shall be allowed as a permitted or conditional use unless such use has received all required approvals from all other governmental bodies having jurisdiction.

Subd. 7. General Flood Plain District (FD)

A. Permissible Uses. The following uses are permitted in the General Flood Plain District:

1. The uses listed in paragraph A. of Subd 5 of this Subsection 850.21 shall be permitted uses.

2 All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant paragraph B. below. Subd. 5 of this Subsection 850.21 shall apply if the proposed use is in the Floodway District and Subd. 6 of this Subsection 850.21 shall apply if the proposed use is in the Flood Fringe District.

B. Procedures for Floodway District and Flood Fringe District Determinations Within the General Flood Plain District.

1. Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Planner for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway District or Flood Fringe District.

a. A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

b. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

c. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

d. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

2 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway District or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

a. Estimate the peak discharge of the regional flood.

b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional

stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

3. The Planner shall present the technical evaluation and findings of the designated engineer or expert to the Council. The Council must formally accept the technical evaluation and the recommended Floodway District and/or Flood Fringe District boundary or deny the permit application. The Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Council shall refer the matter back to the Planner who shall process the permit application consistent with the applicable provisions of Subds. 5 and 6 of this Subsection.

Subd. 8 Subdivisions.

A. Review Criteria: No land shall be platted or subdivided, as defined in Section 810 of this Code, which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the General Flood Plain District shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Subsection and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway District and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

B. Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in paragraph B. of Subd. 7 of this Subsection 850.21 to determine the 100-year flood elevation, the Floodway District and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

C. Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

Subd. 9 Public Utilities, Railroads, Roads, And Bridges.

A. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the Building Code or elevated to above the regulatory flood protection elevation.

B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Subd. 5 and 6 of this Subsection 850.21. Elevation to the regulatory flood protection elevation shall be provided where failure

or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

C. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Subsection 850.21.

Subd. 10 Manufactured Homes.

A. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Subd. 6 of this Subsection 850.21. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with subparagraph 1. of paragraph E. of Subd. 6 of this Subsection 850.21, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

B. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Subd. 11 Administration

A. Planner: The Planner shall administer and enforce this Subsection. If the Planner finds a violation of the provisions of this Subsection the Planner shall notify the person responsible for such violation in accordance with the procedures stated in Subd. 13 of the Subsection 850.21.

B. Permit Requirements:

1. Permit Required. A permit issued by the Planner in conformation with the provisions of this Subsection 850.21 shall be obtained prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

2. Application for Permit. Application for a permit shall be made in duplicate to the Planner on forms furnished by the Planner and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

3. State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Planner shall determine that the applicant has obtained all necessary state and federal permits.

4. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Planner stating that the use of the building or land conforms to the requirements of this Subsection.

5. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Subsection, and punishable as provided by Subd. 13 of this Subsection 850.21.

6. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Subsection. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

7. Record of First Floor Elevation. The Planner shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Planner shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

8. Notifications for Watercourse Alterations. The Planner shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

9. Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the

Planner shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

C. Board of Approvals:

1. Rules. The Board shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Board by State law.

2. Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Subsection, and all requests for variances in connection with this Subsection 850.21, in the same manner, including notices, as it hears and decides appeals and requests for variances under Subsection 850.04, except as otherwise provided herein.

3. Variances. The Board may authorize variances from the terms of this Subsection only in the event that strict enforcement of the literal provisions of this Subsection 850.21 will cause undue hardship because of circumstances unique to the individual property under consideration and only if the action will be in keeping with the spirit and intent of this Subsection 850. Undue hardship shall have the same meaning and shall be interpreted in the same way, as in Subd. 1 of Subsection 850.04. In the granting of such variance, the Board shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Subsection 850.21 and Section 850.04, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

a. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

b. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Subsections.

c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Hearings. Upon filing with the Board of an appeal from a decision of the Planner, or an application for a variance, the Board shall hold a hearing therein as provided in Subd. 1 of Subsection 850.04. The Board shall submit

by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

5. Decisions. The Board shall arrive at a decision on such appeal or variance as provided in Subd. 1 of Subsection 850.04. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Subsection, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Planner or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board may prescribe appropriate conditions and safeguards such as those specified in subparagraph 6 of paragraph D of Subd. 11 of this Subsection 850.21, which are in conformity with the purposes of this Subsection. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Subsection 850.21 punishable under Subd. 13 of this Subsection 850.21. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

6. Appeals. Appeals from any decision of the Board may be made, and as specified in Subd. 1 of Subsection 850.04.

7. Flood Insurance Notice and Record Keeping. The Planner shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

D. Conditional Uses.

1. Notice to Commissioner. Upon filing with the City of an application for a conditional use permit, the City shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

2. Planning Commission. The Commission shall hear all requests for conditional use permits under this Subsection 850.21, and shall make its recommendation to the Council, in the same manner, including notices, as it hears and reviews applications for conditional use permits under Subsection 850.04.

3. Council. The Council shall hear all requests for conditional use permits under this Subsection 850.21, and shall make its decision thereon, in the same manner, including notices, and subject to the same requirements and conditions, as it hears and decides upon applications for conditional use permits under Subsection 850.04. In granting a conditional use permit the

City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in subparagraph 6. of paragraph D. of Subd. 11 of this subsection, which are in conformity with the purposes of this Subsection. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Subsection punishable under Subd. 13 of this Subsection. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

4. Procedures to be followed by the City Council in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:

(i) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

(ii) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

b. Transmit one copy of the information described in subparagraph a. above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

c. Based upon the technical evaluation of the designated engineer or expert, the Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

5. Factors Upon Which the Decision of the Council Shall Be Based. In passing upon conditional use applications, the Council shall consider all relevant factors specified in other sections of this Subsection 850.21, and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments.

b. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the community.
- f. The requirements of the facility for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- l. Such other factors which are relevant to the purposes of this Subsection.

6. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Subsection 850.21, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Subsection 850.21. Such conditions may include, but are not limited to, the following:

- a. Modification of waste treatment and water supply facilities.
- b. Limitations on period of use, occupancy, and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- e. Flood proofing measures, in accordance with the Building Code and this Subsection. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

Subd. 12. Nonconforming Uses.

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Subsection but which is not in conformity with the provisions of this Subsection may be continued subject to the following conditions.

Historic structures, as defined in Subd. 2 of this Subsection 850.21 shall be subject to the provisions of subparagraphs 1. – 5. of paragraph A. of Subd. 12 of this Subsection 850.21.

1. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the Building Code, except as further restricted in subparagraphs 3. – 6. below.
3. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Subd. 5 and 6 of this Subsection for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.
4. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Subsection. The Assessor shall notify the Planner in writing if aware of instances of nonconforming uses that have been discontinued for a period of 12 months.
5. If this is substantial damage to any nonconforming use or structure, it shall not be reconstructed except in conformity with the provisions of this Subsection 850.21. The applicable provisions for establishing new uses or new structures in Subd. 5, 6 and 7 of this Subsection 850.21 will apply depending upon whether the use or structure is in the Floodway District, Flood Fringe District or General Flood Plain District, respectively.
6. If a substantial improvement occurs from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by subparagraph 2 above) and the existing nonconforming building must meet the requirements of Subd. 5 and 6 of this Subsection 850.21 for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

Subd. 13 Penalties For Violation

- A. The provisions, penalties and remedies set out in Subsection 850.04 shall apply to any violation of the provisions of this Subsection 850.21.

B. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

1. In responding to a suspected violation of this Subsection 850.21, the Planner and City may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct violations of this Subsection 850.21 to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
2. When a violation of this Subsection 850.21 is either discovered by or brought to the attention of the Planner, the Planner shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the City's plan of action to correct the violation to the degree possible.
3. The Planner shall notify the suspected party of the requirements of this Subsection 850.21 and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Planner may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed, then the Planner may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.
4. If the responsible party does not appropriately respond to the Planner within the specified period of time, each additional day that lapses shall constitute an additional violation of this Subsection and shall be prosecuted accordingly. The Planner shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Subsection.

Subd. 14 Amendments

- A. The flood plain designation on the Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.
- B. All amendments to this Subsection, including amendments to the Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Subsection and said notice shall include a draft of the amendment to this Subsection 850.21 or technical study under consideration.

850.22. Building Height Overlay District (HOD).

Subd. 1. **Purpose.** The purpose of this chapter is to establish maximum building height regulations in order to minimize the visual impact of tall buildings built within established neighborhoods in and around commercial and industrial neighborhoods.

Subd. 2. **Boundaries.** The official boundaries for each Height Overlay District are established on Appendix A of the City's Official Zoning Map.

Subd. 3. **Maximum Building Heights.** The following maximum building heights are required within each of the following Height Overlay Districts:

- HOD-1 Building height shall be determined by required setbacks, but shall not exceed 1 story or 20 feet, whichever is less.
- HOD-2 Building height shall be determined by required setbacks, but shall not exceed 2 stories or 24 feet, whichever is less.
- HOD-3 Building height shall be determined by required setbacks, but shall not exceed 3 stories or 36 feet, whichever is less.
- HOD-4 Building height shall be determined by required setbacks, but shall not exceed 4 stories or 48 feet, whichever is less.
- HOD-8 Building height shall be determined by required setbacks, but shall not exceed 8 stories or 96 feet, whichever is less.
- HOD-9 Building height shall be determined by required setbacks, but shall not exceed 9 stories or 108 feet, whichever is less.
- HOD-10 Building height shall be determined by required setbacks, but shall not exceed 10 stories or 120 feet, whichever is less.
- HOD-12 Building height shall be determined by required setbacks, but shall not exceed 12 stories or 144 feet, whichever is less.

850.23. Planned Unit Development Districts (PUD).

Subd. 1. **Planned Unit Development District-1 (PUD-1)** – Phoenix Plaza at 6996 France Avenue

A. Legal Description:

The East 215 feet of the South 190 feet of the Southeast Quarter of Section 30, Township 28, Range 24, Hennepin County Minnesota.

B. Approved Plans. Incorporated herein by reference are the FE 70 LLC plans received by the City on February 24, 2012, March 2, 2012 and March 14, 2012, including the building plans, except as amended by City Council Resolution No. 2012-39, on file in the Office of the Planning Department under file number 2011-011.11a.

C. Principal Uses:

All principal uses allowed in the PCD-1 Zoning District, except drive-through uses, bakeries, coffee shops, and banks.

Catering

Clothing store over 2,500 s.f.

Department store

Dry goods

Electrical and appliance store

Furniture store

Medical offices up to a maximum of 7,950 square feet total for the site

Office supplies

Paint and wallpaper

Sporting goods

*If the entire building is occupied by retail uses, then the mezzanine shall be turned into storage space, and shall not be used for retail.

D. Accessory Uses:

Off-street parking facilities

Produce stands pursuant to permit issued by the City Manager.

Signs allowed per the PCD-1 District standards, except as follows:

1. Wall signage on the two sides of the southeast corner of the building shall not exceed 2 feet by 13 feet in size.
2. There shall be no window signage above the entry doors on the first level.
3. The monument sign setback shall be three (3) feet from the right-of-way.

E. Conditional Uses:

None

F. Development Standards. Development standards per the PCD-1 Zoning District, except the following:

Building Setbacks

Front – France Avenue	16 feet
Side Street – South	10 feet
Side – North	39 feet
Rear – West	68 feet

Parking Lot Setbacks

Front – France Avenue	10 feet
Front – 70th Street	4 feet
Side – North & West	4 feet

Building Height one story

Maximum Floor Area Ratio 37%

G. Drive-through uses, coffee shops, bakeries and banks, medical office over 7,950 square feet, and retail space over 6,600 square feet shall be prohibited.

History: Ord. 825 adopted 3-07-84 and repealed Ord. 811 and 816; 825-A1 not published; amended by 825-A2 1-02-85, 825-A3 7-03-85, 825-A4 7-03-85, 825-A5 12-24-86, 825-A6 12-24-86, 825-A7 5-28-86, 825-A8 2-19-86, 825-A9 5-28-86; 825-A10 not granted; 825-A11 9-2-87, 825-A12 12-24-86; 825-A13 referred to staff--Council minutes 1-16-87; amended by 825-A14 12-24-86, 825-A15 2-11-87, 825-A16 2-11-87; 825-A17 not developed; 825-A18 9-2-87, 825-A19 5-27-87, 825-A20 4-29-89; 825-A21 not developed; 825-A22 3-23-88; 825-23 referred to Planning Commission 6-06-88; 825-A24 withdrawn; 825-A25 5-03-89, 825-A26 8-24-88; 825-A27 10-30-91; amended by 825-A28 5-03-89, 825-A29 5-03-89, 825-A30 12-13-89, 825-A31 10-25-89, 825-A32 12-20-89, 825-A33 1-31-90, 825-A34 8-29-90, 825-A35 8-29-90, 825-A36 8-29-90; 825-A37 reconsidered; 825-A38 11-28-90. Amended by Ord. 850-A1 3-

3-93; Ord 850-A2 6-30-93; Ord 850-A3 8-2-93; Ord. 1993-10 8-16-93; Ord 850-A4 8-15-94; Ord 850-A5 9-19-94; Ord. 1995-6 8-7-95; Ord. 1995-10 12-04-95; Ord 1995-9 2-5-96; Ord 850-A7 5-20-96; Ord 1996-2 9-16-96; Ord 850-A8, 12-16-9; Ord 1997-2 2-18-97; Ord 850-A9, 4-21-97; Ord 850-A10, 4-21-97; Ord 850-A11, 7-7-97; Ord 850-A12, 9-15-97; Ord 1997-11 11-5-97; Ord 850-A13, 2-17-98; Ord 850-A14, 5-18-98; Ord 850-A15, 9-22-98; Ord 1999-11, 11-16-99; Ord 850-A16, 2-15-00; Ord 2000-4, 2-15-00; Ord 850-A17 4-18-00; Ord 850-A18 7-5-00; Ord 2000-7 7-5-00; Ord 850-A19 16-00; Ord 850-A20 6-19-01; Ord 850-A21 6-19-01; Ord 2001-03, 6-19-01; Ord 2001-7 10-3-01; Ord No. 850-A22 3-19-02; Ord No. 2002-03, 6-18-02; Ord 2002-06 9-27-02; 2003-03 2-4-03; Ord 2003-06, 6-3-03; Ord 2003-12 12-16-03; Ord 2004-7, 5-18-04; Ord. 2004-11, 8-17-04; Ord 2005-03 5-3-05; Ord 2005-06 6-21-05; Ord 2006-01, 03-06-06; Ord 2006-02, 03-06-06; Ord 2007-03; 02-20-07; Ord 2007-08 6-1-/07; Ord 2007-09, 06-05-07; Ord. 2007-12, 06-19-07; Ord 2007-13, 06-19-07; Ord 2007-16, 12-4-07; Ord 2007-17, 11-20-07; Ord 2008-01, 03-18-08; Ord 2008-04, 06-17-08' Ord 2009-08, 07-07-09; Ord 2009-09, 07-07-09; Ord 2009-11, 09-15-09; Ord 2009-12, 12-01-09; Ord 2010-05, 04-06-10; Ord 2010-08, 07-06-2010; Ord 2010-17, 12-30-2010; Ord 2010-18, 12-30-2010; Ord 2010-19, 12-30-2010; Ord 2011-03, 03-15-2011; Ord 2011-06, 04-19-2011; Ord 2011-13, 7-5-2011; Ord 2012-01, 01-03-2012; Ord 2012-02, 01-03-2012; Ord 2012-9, 3-20-2012

Reference: M.S. 103F, 429, 462, 469.001 to 469.047

Cross-Reference: Sections 185, 445, 705, 801, 805, 810, 815, 1045, 1311, 1345, 1405

Note: The Federal Emergency Management Agency ("FEMA") has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to initiation of site preparation if a change of special flood hazard area designation will be requested.